SUPREME COURT OF THE UNITED STATES.

No. 117.

HARRIOT V. LADD, BY HER NEXT FRIEND, MONTGOMERY D. CORSE, COMPL'T AND APPELLANT,

vs.

JOSEPH B. LADD ET AL.

ON APPEAL FROM THE CIRCUIT COURT OF THE U. S. FOR ALEXANDRIA, D. C.

INDEX.

	Original.	Print.
Title—bill	1	2
Exhibit A, marriage settlement	18	2
" B, deed of trust to John Hooff	23	13
Answer of the Farmers' Bank	31	18
Exhibit A	41	23
" B	41	23
Answer of John Hooff	42	24
Exhibit No. 1, advertisement of property	48	27
Instructions to the auctioneer	49	27
Answer of Benoni Wheat and John J. Wheat	50	28
Agreement of counsel as to amended bill	52	29
Answer of Farmers' Bank to amended bill	53	29
Order of publication against absent defendants	57	31
Complainant's bill dismissed	58	32
Appeal to the Supreme Court	58	32
Deposition of John Hooff	60	33
" Robert Jamieson	64	35
1st agreement of counsel	65	36
2nd " "	67	37
Transfers of the stock of the Washington and Alexandria Turnpike Company	69	38
Complainant's bond	72	40
Clerk's certificate	73	40

J. & G. S. Gideon, printers.

DISTRICT OF COLUMBIA, *to wit:*

Pleas before the honorable the judges of the United States circuit court of the District of Columbia, for the county of Alexandria, the 6th day of October, 1845.

Title.

HARRIET V. LADD, by her next friend Montgomery D. Corse, compl't, against JOSEPH B. LADD, John H. Ladd, the Farmer's Bank of Alexandria, John Hooff, Benoni Wheat, and John J. Wheat, the two last trading under the firm of Benoni Wheat and Son, defendants. } In chancery.

Be it remembered, that heretofore, to wit, at the rules held in the clerk's office of the said court, for the month of February, 1843, came the complainant, by Messrs. Brent and Brent, her solicitors, and filed there a certain bill against the said defendants, which is in the words and figures following, to wit:

To the honorable judges of the circuit court of the District of Columbia, for the county of Alexandria, sitting in chancery.

Bill.

Humbly sheweth to your honors, your oratrix, Harriet V. Ladd, by her next friend Montgomery D. Corse, all of the county of Alexandria, in the District of Columbia, that some time previous to the ninth day of October, in the year of our Lord eighteen hundred and twenty-seven, to wit, on or about the 2d day of November, 1824, your oratrix was married to Joseph B. Ladd, then of the said county of Alexandria, and now of New Port, in the State of Rhode Island; and that previous to her said marriage, to wit, upon the twentieth day of October, in the year of our Lord eighteen hundred and twenty-four, with a view to said marriage, which was afterwards solemnized, your oratrix entered into a marriage contract with her then intended husband, the said Joseph B. Ladd, by which she secured to herself certain property named in said marriage contract, and with the consent of the said Joseph B. Ladd, the said property was conveyed to a certain John H. Ladd, then of said county, but now of Savannah, in the State of Georgia, in trust to secure the same to your oratrix, in manner and form as described in said marriage contract; and in the same contract, certain property, and rights, and credits named in the same, *was* conveyed to the said John H. Ladd in trust, by the said Joseph B. Ladd, for the exclusive benefit of your oratrix, and was settled upon her, in manner and form as therein named; all of which is shewn to your honors by a certified copy of said marriage

contract herewith filed, and marked exhibit A, and which is made a part of this bill of complaint, and which will further be shewn to your honors, by producing the original of said copy, upon the final hearing before your honors. Your oratrix, by her next friend aforesaid, avers and charges, that by said marriage contract, the said Joseph B. Ladd conveyed in trust to the said John H. Ladd, his heirs and assigns forever, a certain "house and lot situated upon the north side of King street, and to the westward of Pitt street, in the town of Alexandria, in the county of Alexandria, in the district aforesaid, and bound as described in said marriage contract, already made a part of this bill of complaint; also one hundred and sixty-two shares of the Alexandria and Washington Turnpike Company. And your oratrix, by said marriage contract, conveyed in trust also to the said John H. Ladd, his heirs and assigns forever, all that property which she then owned in the town of Alexandria aforesaid, situated on the east side of Union street, known by the name of Conway's wharf, with the ware houses, dwelling houses, docks, and appurtenances thereto belonging; also one lot of ground on the west side of Union street, purchased by Joseph Conway, dec'd, of Thomas Conway, by indenture recorded among the land records of the county of Alexandria, in the district aforesaid; also all the right, title, interest, claim, or demand, of your oratrix, under the will of her then late husband William Nicholl, deceased, (she then being the widow of the said William Nicoll, to whom she had been married in his lifetime,) of Northumberland county, Virginia, or that may have descended to your oratrix from her father Joseph Conway, deceased, or from her mother, or from any other person.

Your oratrix avers and charges, that all of the aforesaid property, of the descriptions, kind, and nature aforesaid, and as described in the said marriage contract, was conveyed, as will be seen, to the said John H. Ladd, "to have and to hold unto him, his heirs, executors, administrators and assigns, in trust for the use of the respective parties who have conveyed the same, unto the solemnization of the said intended marriage, and from and after its solemnization, then upon the trust that the said John H. Ladd, his heirs, &c., shall and do permit your oratrix to have, receive, take, and enjoy all the interest, rents, and profits of the property so conveyed, to and for her own use and benefit, or to the use of such person or persons, and in such parts and proportions, as your oratrix should appoint, from time to time, during the coverture, by any writing or writings, under her hand and seal, attested by three witnesses, or to such person or persons as your oratrix, by her last will and testament in writing, to be by her signed, sealed, published, and declared, in the presence of the like number of witnesses, should devise or will the same to, &c.

Your oratrix, by her said next friend, further avers and charges, that the said marriage contract expressly declares, in that part in which the trusts are set forth as aforesaid, that "the intent of the said parties," (meaning all the parties to the same,) that none of the property conveyed in said contract should be at the disposal of, or subject to the control, debts, or engagements of the said Joseph B. Ladd.

Your oratrix, by her said next friend, further charges and avers, that the said contract declares, that notwithstanding your oratrix might, by her writing as aforesaid, appoint to whose use "all the interest, rents, and profits of the property," conveyed in said contract, by the express terms and intention of said contract, such use could not be given, or appointment made, to pay the "debts" or "engagements" of the said Joseph B. Ladd.

Your oratrix, by her said next friend, further avers and charges, that under said contract she had no power or right to convey the property named therein, or to dispose of the same, or to make the same liable for any debt in species, for any person or persons whomsoever, or to convey or burthen the same by anticipation or otherwise, or to divest herself of the same; and that all she could do would be to appoint the use of the interest, rents, and profits of the same to be received by other person or persons than herself, but not by the said Joseph B. Ladd, or any person or persons for him, or to pay his debts or engagements; it being expressly declared in said contract, that not only the said property, but "the interest, rents, and profits" of the same, should not be liable, in any form, for the same, and that said property should not be subject to the debts or engagements of the said Joseph B. Ladd. Yet, so it is, may it please your honors, in order to defraud and injure your complainant, and in violation of the express trusts and intentions of said contract, and whilst your oratrix was also under the marital influence of her said husband, Joseph B. Ladd, and under his power, and ignorant of her rights, and the extent thereof, under said contract:

Your oratrix, by her said next friend, avers and charges, that she was induced by her said husband, the said Joseph B. Ladd, and with the knowledge and connivance of the said Farmers' Bank of Alexandria, to sign a certain deed of indenture, upon the ninth day of October, in the year of our Lord eighteen hundred and twenty-seven, to John Hooff, of the county of Alexandria aforesaid, and to convey to him, in trust, a part of the aforesaid property named and described in the aforesaid marriage contract, to secure the payment of a loan which the said Joseph B. Ladd was about to obtain from the said Farmers' Bank of Alexandria, amounting to the sum of seven thousand dollars, on the said Joseph B. Ladd's notes, endorsed by the said John H. Ladd, and discounted by said bank, which said deed of indenture was also signed and executed by the said John H. Ladd and the said John Hooff, and which deed is witnessed by four persons, in the form and manner as shewn by reference to a copy of said deed of indenture, herewith filed and made a part of this bill of complaint, and is marked "exhibit B."

Your oratrix, by her said next friend, avers and charges, that no power or right whatsoever is given by the said marriage contract to the said John H. Ladd to convey the property named in said marriage contract to any person or persons whomsoever, nor could your oratrix authorize him to do the same in form as done; and that the aforesaid deed of indenture, marked "exhibit B," from said John H. Ladd to

the said John Hooff, is null and void, and is not binding in law or equity, and was obtained from your oratrix by the marital influence and coercion of her said husband whilst your oratrix was under his control and living with him as his wife; and that your oratrix's said husband did not join with her in the execution of said deed, nor was she examined privily and apart from him, or any examination made of your oratrix, as the law requires, to ascertain that said instrument of writing was executed or acknowledged freely by her, and not influenced by her said husband; and that the said marriage contract did not empower your oratrix to execute such deed, in form as made to the said John Hooff, for the said purposes mentioned therein, of her own act, without all the forms and requisites of the law being complied with, and therefore said deed is not valid, &c.; and that all that could be done, in any case, by your oratrix or the said John H. Ladd, was, that your oratrix, or such persons as she might appoint in due and legal form, could receive and share the use of "the interest, rents, and profits" of said property and nothing more, and by such instrument of writing as was good in law, &c.

And your oratrix, by her next friend aforesaid, avers and charges, that she had no power under said trusts, by anticipation, or otherwise, to authorize said John H. Ladd to make the said deed to the said John Hooff, nor had the said John H. Ladd any power or right to make the same in form as made, or for the purposes therein expressed; and that said deed, so far as the transfer and conveyance of said property is attempted to be made, is null and void, and if binding on any one is alone made by said John H. Ladd; and further, that your oratrix executed the same under the influences aforesaid, and whilst a married woman, as she yet is not seperated from her said husband, in violation of her rights of the law and of said marriage contract, and that all her actings and doings in the premises are null and void, and ought to be so declared by your honors.

Your oratrix says, that it is shewn by the said deed of indenture, marked "exhibit B," that it is stated that your oratrix "agreed to give the lien by the said bank," and that she had "directed and appointed the said Wharf lot, with its buildings and improvements, to be conveyed to the said John Hooff." Now, your oratrix, by her said next friend, most positively avers and charges, that she never did direct or make any appointment of the kind, unless it can be considered, that her signing, in manner she did, the said deed of indenture, was such; and that said appointment ought to have been made, if she could have made the same, in other manner and form, and it was so intended; and that she is fraudulently and falsely made to say that she had made such appointment before the said deed was signed by her, when in fact she never had; nor did she know what said deed contained, or its legal or equitable effects, nor was the same examined by her; and, if it had been, she was incapable of knowing what its effects would be, as she is ignorant of the law in such cases; and from her situation, as a female under coverture, it is not to be presumed that she was capable of acting without the advice of or counsel of her husband; and that in this case he was a party, acting

for his own interest against your oratrix, as well as her trustee, who was the endorser on his note for the said money in the attempted fraud aforesaid upon her rights.

Your oratrix, by her said next friend, avers and charges, that the said John Hooff, and the said Farmers' Bank of Alexandria, have caused the said Wharf lot, with its buildings and improvements as described in the aforesaid marriage contract, and in the aforesaid deed of indenture, to be taken and sold, under the said deed of indenture, to the said John Hooff, and it has been sold to and purchased by Benoni Wheat, of the county of Alexandria, who has taken possession of the same, and holds the same as his property in virtue of said purchase made from the said John Hooff, and refuses to let your oratrix have the same, and denies her right to the same; all of which is contrary to law and to equity. Your oratrix, by her said next friend, also avers and charges, that the said Farmers' Bank of Alexandria claims to hold as their own, and has taken possession of the aforesaid shares of the Alexandria and Washington Turnpike Company, or a part of the same named in the said marriage contract, as security for the aforesaid money loaned to the said Joseph B. Ladd, or upon some other ground, or for some other purpose; and your oratrix, by her said next friend, avers and charges, that the said claim of the said Farmers' Bank of Alexandria is contrary to law and to equity, and that the same is made in fraud of your oratrix's right under said marriage contract, as is shewn to your honors, and will be more fully shewn upon a hearing of the premises.

Your oratrix, by her said next friend, further states and charges, that whilst she was in the power, and under the marital influence and control of her said husband, and living with him, she was induced by him to execute a certain instrument of writing, under her hand and seal, and dated the 30th April, 1829, as will be shewn to your honors, by which the aforesaid John H. Ladd was directed to transfer to Mrs. Sarah Ladd, then of the district of Columbia, now of Newport, Rhode Island, mother of her said husband, the same one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company in the said indenture or marriage contract aforesaid mentioned, and which was done as aforesaid by your oratrix without any consideration passing from said Sarah Ladd, in her own rights, to your oratrix; and, as your oratrix avers and charges, she was unduly influenced to do the same by her said husband, to secure the sum of $4,000, which her said husband was indebted to a certain Sarah Easton Ladd, loaned to her said husband by Mrs. Sarah Ladd aforesaid, as guardian to said Sarah Easton Ladd, then a minor; and it was so understood and agreed at the time, that the said Mrs. Sarah Ladd should hold said shares in her name to secure the payment of the said sum to the said Sarah Easton Ladd, and for no other purpose; and when the said sum should be paid or satisfied, the said shares were to be retransferred for the sole benefit and use of your oratrix under said marriage contract, or to be held by Mrs. Sarah Ladd for your oratrix, under the same trusts as are named in said marriage contract.

And your oratrix further avers and charges, that, at a subsequent time thereto, it was agreed between her, the said Sarah Ladd and Sarah Easton Ladd, when of lawful age, that the said Sarah Easton Ladd would receive, in payment of the aforesaid sum of money due her, eighty-two shares of the said stock, as will be shewn by an instrument of writing between said Sarah Easton Ladd and your oratrix, dated 14th December, 1839; and that the said Sarah Ladd, but without any legal authority of your oratrix, transferred to the said Sarah Easton Ladd the said eighty-two shares, upon the sixth day of December, 1839, as will be shewn to your honors. Your oratrix further states and avers, that the said Sarah Ladd, upon the 21st of November, 1839, transferred to the Farmers' Bank of Alexandria the remaining eighty shares of the said stock, without any legal or good authority for doing the same, as will be shewn; and your oratrix charges, that, at the time of said transfer to said bank, the said Sarah received no consideration for the same, on her own account, and that said bank well knew that said shares did not belong to the said Sarah, and were held by her as the property of your oratrix, and, as such, the said transfer was intended to be by the said Sarah Ladd, and the said bank so accepted it. And your oratrix avers and charges, that all of said writings, transfers, and doings, in the premises, were illegal, and in fraud of your oratrix's rights, secured to her by said marriage contract; notwithstanding all of which, the said Farmers' Bank of Alexandria, contrary to law, and to equity, and good conscience, hold the said eighty shares in its name, have received the dividends upon the same ever since said transfer to them, and refuse to relinquish the same to your oratrix, or to account with her for the value of the same, or for said dividends; the said bank pretending that the same have been transferred to them in due form, and for a valuable consideration, as security for a certain debt due to said bank by the said Joseph B. Ladd as drawer, and the said John H. Ladd as endorser, on a note or notes for money loaned by the said bank to the said Joseph B. Ladd, which pretensions of said bank your oratrix positively denies, and avers that the conduct of the said bank, in the premises, is unjust, contrary to equity and good conscience, and is in fraud of your oratrix's rights. Your oratrix, by her next friend aforesaid, avers and charges, that all of the aforesaid actings and doings in the premises, and every act and doing connected with the same, by the aforesaid Joseph B. Ladd, John H. Ladd, John Hooff, Benoni Wheat, and the said Farmers' Bank of Alexandria, are in violation of your oratrix's rights, contrary to equity, and done to defraud your oratrix out of that property, and these rights, secured to her, or intended so to be, by the marriage contract aforesaid. Your oratrix, by her said next friend, also avers, that the aforesaid actings and doings have done her the greatest and most manifest injury, and are calculated to reduce her to ruin and to poverty, with her family of children, who were left dependant on her when her said husband abandoned her, and without other means of support; that the said Wharf lot did not sell for near the amount claimed by the said bank, and that it will take all the residue of her

property, named in said marriage contract, and said deed of indenture, to pay the same. Your oratrix, by her said next friend, charges, that the said deed of indenture, as well as any other pretended deed or assignment, or assignments, under which the said Farmers' Bank of Alexandria may hold, or pretend to hold, the said shares of the Alexandria and Washington Turnpike Company, ought to be declared as null and void, and inoperative against the rights of your oratrix, and ought to be set aside and declared to have no effect; and your oratrix ought to be restored to the peaceable enjoyment and possession of her said property and rights, and quieted in the same against all of the aforesaid parties named in this her bill of complaint. Your oratrix, by her next friend, also avers and charges, that the said Farmers' Bank of Alexandria has received the interest or dividend arising from the aforesaid shares of the Alexandria and Washington Turnpike Company, for at least four years, and the said bank may have sold said shares, of which your oratrix knows nothing, and that said bank has no right to said interest or dividend, or to sell the same; and in law and equity your honors ought to decree, that the said interest and dividend shall be paid, with interest thereon from the time due, to your oratrix; and if the same, or any part thereof, have been sold, that the value of the same, with interest, shall be paid to your oratrix.

Your oratrix, by her said next friend, avers and charges, that, for about the last four years, she has been left without any protector for herself and her infant children, the aforesaid Joseph B. Ladd, her husband, having gone off and left her and his children, from no fault of your oratrix, but from causes too painful to name, but ruinous to your oratrix's happiness; and that she has had no one to counsel and advise her in the premises, and that, from her troubles, and other matters and things connected with the same, she has not been able to ask justice from your honors before the present time, and that your oratrix's present situation is the cause of her now instituting these proceedings by her next friend aforesaid, which she asks to be permitted to do. Your oratrix, by her next friend aforesaid, further states, that, all of which actings, doings, and pretenses of the said parties complained against, are contrary to equity and good conscience, and tend to the manifest wrong and injury of your oratrix in the premises.

In tender consideration whereof, and for as much as your oratrix is remediless in the premises, at and by the direct and strict rules of law, and cannot have adequate relief, save in a court of equity, where matters of this kind and a like nature are properly cognizable and relievble, your oratrix, by her next friend aforesaid, prays your honors, that the said Joseph B. Ladd, John H. Ladd, Sarah Ladd, John Hooff, Benoni Wheat, and the said Farmers' Bank of Alexandria, may be made defendants to this bill of complaint, and that subpœnas may issue for the said John Hooff, Benoni Wheat, and the said Farmers' Bank of Alexandria, commanding them, at a certain day and under a certain pain, personally to be and appear before your honorable court, then and there to answer the premises, and to stand to and abide such

order and decree as may be made in the premises, and that your honors do grant an order of publication in due form of law against Joseph B. Ladd, Sarah Ladd, and John H. Ladd, who reside beyond the jurisdiction of your honors, as before stated; and should they, or either of them, neglect to appear and answer this bill, that it may be taken pro confesso then.

Your oratrix, by her said next friend, also prays your honors, that the said deed of indenture, under which the said Farmers' Bank of Alexandria claim, and under which the said John Hooff sold the property as aforesaid, may be surrendered and given up, and that your honors do order and decree that the said deed is null and void and cancelled, and of no effect against your oratrix; and that the purchase made by the said Benoni Wheat gives him no right to the said property purchased by him as aforesaid; and that the said sale, made by the said John Hooff to the said Benoni Wheat, be cancelled; and all writings, deeds, or other instruments of writings relative to the same, may be also decreed to be surrendered, and that the same may be cancelled, if any such deeds or writings exist; and if they do, your oratrix, by her said friend, asks that the said defendants may be compelled to produce the same before your honors; and your oratrix also prays your honors that she may be quieted in her possession and enjoyment of the said property named in the said deed of indenture to the said John Hooff, against all of the said defendants, except so far as the said John H. Ladd has rights under the aforesaid marriage contract.

Your oratrix, by her next friend aforesaid, also prays your honors, that the said Farmers' Bank of Alexandria may be compelled to produce before your honors at hearing the original, and to file with the answer to this bill of complaint copies of all and every writing or deed, purporting to be assignments, agreements, deeds, or appointments, if any they have, of and concerning the said shares of the Alexandria and Washington Turnpike Company, signed or executed by your oratrix, or pretended so to be; and that the same may be given up and cancelled; and that your honors do further decree, that the said Farmers' Bank of Alexandria shall assign said shares to your oratrix under said marriage contract, or in default thereof pay the value of said shares, which is $5000, as your honors shall direct, and also shall pay and refund unto your oratrix all and every sum or sums of money, amounting to at least $5000 more, as your oratrix is advised and charges, received for and on account of the aforesaid shares of the Alexandria and Washington Turnpike Company, with interest thereon. Your oratrix also prays that the said Farmers' Bank of Alexandria may be compelled to answer specially and particularly, in addition to other matters as the law directs, the following interrogatories, by making true and direct answers to the same, to wit: Upon what account, and for what consideration, did Sarah Ladd transfer and assign to the Farmers' Bank of Alexandria eighty shares of the capital stock of the Washington and Alexandria Turnpike Company, upon the 21st November, 1839. Did the said Sarah Ladd receive any consideration for said assignment in her own

right or for her own benefit? Did not said bank know at the time of said assignment, or so understand, that the said 80 shares were held by Mrs. Sarah Ladd, as the property of, or for and on account of your oratrix? Were not said shares assigned by said Sarah Ladd as security for the interest alone due upon the debt owing by Joseph B. Ladd and John H. Ladd, his endorser as aforesaid; and if not, for what was the assignment made? If said bank did not know or understand, at the time of said assignment, that the said Sarah Ladd held said shares as the property of your oratrix, or for or on her account as aforesaid, state in what capacity said bank dealt with said Sarah Ladd, as to her right to said shares; did said bank deal with her as the bona fide owner of said shares in her own right; and if so, how happened it that Sarah Ladd assigned what the bank considered her own property, to secure the debt in any manner or form, for which said bank now pretends to hold said shares?

Your oratrix also prays, that the said Sarah Ladd may, in addition to her answers, true and direct answers upon her corporal oath make, especially to the following interrogatories, viz: Was not the transfer and assignment of one hundred and sixty-two shares of the aforesaid turnpike company made to you, as aforesaid stated, for the sole purpose, at the date of said transfer, which was upon the 30th April, 1839, to secure the debt of $4,000, due by Joseph B. Ladd to Sarah Easton Ladd, and borrowed from you as her guardian? Did you not subsequently transfer to said Sarah Easton Ladd 82 shares of said stock, in payment of said debt to her; and if so, was it by request of Joseph B. Ladd; and if not, by whose request was it? Did you ever pay one cent to your oratrix, or any other person, for said shares, more than said sum of $4,000; and had you ever any right to the same in your own individual right, and did you not hold them alone for your oratrix? If not, please to state what you paid for them; state also, whether at the time you assigned the 80 shares to the Farmer's Bank of Alexandria, upon the 21st November, 1839, the said bank did not know, or had reason to know, and did not understand, that the said shares were not your own, and that you only held them for your oratrix.

Your oratrix, by her said next friend, also prays your honors, that the aforesaid defendants may make true and perfect answers to this bill of complaint, and that the said defendants may be compelled to pay all the costs of your oratrix in the premises, and that your honors will grant to your oratrix such other and further relief in the premises, as may be consistent with equity, &c.; and as in duty bound will ever pray, &c.

BRENT & BRENT,
Solicitors for complainant.

COUNTY OF ALEXANDRIA,
District of Columbia, to wit:

Upon this 12th day of January, 1843, before me, a justice of the peace for the county aforesaid, personally appeared Harriet V. Ladd and Walter A. Nichol, and made oath upon the holy evangely of Almighty

God, that the facts stated in the aforegoing bill of complaint, as of their own knowing, are true, and so far as derived from the information of others, they believe them to be true.

CHARLES McKNIGHT.

Exhibit A.—Marriage settlement.

This indenture tripartite, made this twentieth day of October, in the year of our Lord eighteen hundred and twenty-four, between Joseph B. Ladd, of the town of Alexandria, of the first part, Harriet V. Nicoll, of the town aforesaid, of the second part, and John H. Ladd, of the town aforesaid, of the third part. Whereas, a marriage is shortly to be had and solemnized, between the said Joseph B. Ladd and Harriet V. Nicoll; and whereas, the said Harriet V. Nicoll is now possessed of a considerable real and personal estate, which it has been agreed between her and the said Joseph B. Ladd, should be settled to her sole and separate use, with power to dispose of the same, by appointment or devise; and whereas, the said Joseph B. Ladd has agreed to add to the property of the said Harriet V. Nicoll one hundred and sixty-two shares of the Alexandria and Washington Turnpike Company, and the premises hereinafter described, now occupied by Dr. Vowell, which is likewise to be settled in manner aforesaid, with this understanding, that in case the said Harriet V. Nicoll should, after the intended marriage had, happen to survive the said Joseph B. Ladd, that she shall not have or claim any part of the real or personal estate whereof the said Joseph B. Ladd should die seized or possessed, or entitled to, at any time during the coverture between them, by virtue of her dower, or title of dower, at common law, or by virtue of her being administratrix, or entitled to the administration of the goods and chattels, rights and credits, of the said Joseph B. Ladd, or in any other manner whatever. Now, this indenture witnesseth, that in pursuance of the agreement aforesaid, and of the sum of five dollars to him in hand paid at and before the sealing and delivery of these presents, the receipt whereof is hereby acknowledged, the said Joseph B. Ladd hath given, granted, bargained and sold, and by these presents doth give, grant, bargain, sell, and convey, unto the said John H. Ladd, his heirs and assigns forever, a house and lot situated upon the north side of King street, and to the westward of Pitt street, in the said town of Alexandria, and bounded as follows, to wit: Beginning upon King street, four feet to the eastward of the centre of the square formed by Pitt and St. Asaph streets, and running thence eastwardly with King street, and binding thereon twenty-three feet nine inches, be the same more or less; thence northwardly with a line parallel to Pitt and St. Asaph, one hundred and nineteen feet; thence westwardly and parallel to King street, the length of the first line; thence southwardly with a straight line to the beginning; also one hundred and sixty-two shares of Alexandria and Washington Turnpike Company; and the said Harriet V. Nicoll, in consideration of the agreement aforesaid, and of the sum of five dollars to her in hand paid, at and before the sealing and delivery of these presents, the receipt whereof is hereby

acknowledged, hath granted, bargained, sold, and conveyed, and by these presents, doth grant, bargain, sell, and convey, unto the said John H. Ladd, his heirs and assigns forever, the following property, to wit: All that property situated on the east side of Union street, long known by the name of Conway's wharf, with the warehouses, dwelling houses, docks, and appurtenances thereto belonging, as it was devised by the late Richard Conway to Joseph Conway, deceased, from whom it descended to the said Harriet V. Nicoll; also, one lot of ground on the west side of Union street, purchased by the said Joseph Conway of Thomas Conway, by indenture, now of record, in the county of Alexandria; also, all right, title, interest, claim or demand, of the said Harriot V. Nicoll, under the will of her late hasband, William H. Nicoll, of Northumberland county, Virginia, or that may have descended to her from her father, Joseph Conway, deceased, or from her mother, or from any other person. To have and to hold all and singular the property hereby conveyed unto him, the said John H. Ladd, his heirs, executors, administrators and assigns, to his and their only use forever; upon such trusts, and for such uses, intents, and purposes, as are hereinafter mentioned; that is to say, in trust, for the use of the respective parties, who have conveyed the same until the solemnization of the intended marriage, and from and after its solemnization, then upon the trust that the said John H. Ladd, his heirs, executors, and administrators, shall and do permit the said Harriet V. Nicoll, the intended wife, to have, receive, take, and enjoy, all the interest, rents, and profits of the property hereby conveyed to and for her own use and benefit, or to the use of such person or persons, and in such parts and proportions as she, the said Harriet V. Nicoll, shall appoint from time to time, during the coverture by any writing or writings under her hand and seal, attested by three credible witnesses, or to such person or persons as she, by her last will and testament in writing, to be by her signed, sealed, published, and declared, in the presence of the like number of witnesses, may devise or will the same to; and in default of such appointment or devise, then the estate and premises aforesaid to go to those who may be entitled thereto, by legal distribution; it being the intent of the parties that none of the property hereby conveyed shall be at the disposal of, or subject to, the control, debts, or engagements of the said Joseph B. Ladd.

In testimony whereof, the said parties have hereunto set their hands and seals, the day and year first before written.

JOSEPH B. LADD, [SEAL.]
HARRIOT V. NICOLL, [SEAL.]
JOHN H. LADD. [SEAL.]

Signed, sealed, and delivered, in presence of—

R. C. WEIGHTMAN,
CH. H. SIMMS,
R. WALLACK.

At an United States circuit court of the district of Columbia, continued and held for the county of Alexandria, the 1st day of December,

1824, this deed from Joseph B. Ladd and Harriot Nicoll, to John H. Ladd, was proved by the oaths of Roger C. Weightman, Charles H. Simms, and Richard Wallack, to be the act and deed of the parties, and ordered to be recorded.

Teste: EDM. I. LEE, *C. C.*

FAIRFAX COUNTY, *sc:*

We, Richard M. Scott and Samuel Summers, justices of the peace in the county aforesaid, in the State of Virginia, do hereby certify, that Joseph B. Ladd and John H. Ladd, parties to a certain deed, bearing date on the 20th day October, 1824, and hereto annexed, personally appeared before us, in our county aforesaid, and acknowledged the same to be their act and deed, and desired us to certify the said acknowledgment to the clerk of the county court of Northumberland, in order that the said deed may be recorded.

We do further certify, that Harriet V. Ladd, late Harriet V. Nicoll, wife of the said Joseph B. Ladd, parties to the said deed, personally appeared before us, in our said county, and being examined by us privily and apart from her husband, and having the deed aforesaid fully explained to her, she, the said Harriet, acknowledged the same to be her act and deed, and declared that she had willingly signed, sealed, and delivered the same, and that she wished not to retract it.

Given under our hands and seals, this 12th day of December, 1826.

RICH'D M. SCOTT, *J. P.*, [SEAL.]
SAMUEL SUMMERS, *J. P.* [SEAL.]

At a court held for Northumberland county, at the court house, on Monday, the 12th of February, 1827, this indenture, with the certificate of its proof and recordation in the United States circuit court for the District of Columbia, for the county of Alexandria, and that of Rich'd M. Scott and Samuel Simmons, gentlemen, justices of the county of Fairfax, and State of Virginia, was presented unto this court, and ordered to be recorded.

Teste: FLEMING BATES, *C. C.*

Truly recorded.

Teste: S. A. M. LELAND, *D. C. C.*

Exhibit B.

Deed of trust to the Farmers' Bank.

This indenture, made this ninth day of October, in the year one thousand eight hundred and twenty-seven, between John H. Ladd, of the first part, Harriet V. Ladd, late Harriet V. Nicoll, of the second part, John Hooff, of the third part, all of the town of Alexandria, in the District of Columbia, and the Farmers' Bank of Alexandria of the fourth part. Whereas the said Harriet V. Ladd, late Harriet V. Nicoll, was, on the twentieth day of October, in the year one thousand eight hundred and twenty-four, seized, in her own right, as the only child and heir at law of Joseph Conway, deceased, amongst other things, of a cer-

tain wharf, with the buildings, improvements, and appurtenances, in the said town of Alexandria, lying to the east of Union street, commonly called and known by the name of Conway's wharf. And a marriage being then about to be had and solemnized between her and Joseph B. Ladd, the said Joseph B. Ladd, and the said Harriet, did, by deed dated the said twentieth of October, in the year one thousand eight hundred and twenty-four, convey, amongst other things, to the said John H. Ladd, the said wharf, with the buildings and improvements, "to hold to the said John H. Ladd, his heirs and assigns, to his and their only use, forever. In trust, however, as to the said wharf, buildings, and improvements, to the use of the said Harriet, until the said marriage should be solemnized, and, from and after such solemnization, then to permit the said Harriet to have, receive, and enjoy the rents and profits thereof, for her own use and benefit, or to hold the same for the use and benefit of such person or persons, and in such parts and proportions as she should, from time to time appoint, during the coverture, by any writing or writings, under her hand and seal, attested by three credible witnesses, or to such person or persons as she, by her last will and testament, in writing, to be by her signed, sealed, published, and delivered, in the presence of the like number of witnesses, should devise or will the same to; and in default of such appointment, or devise, then to go to those who might be entitled thereto, by legal distribution; it being the intent of the parties to the said deed that none of the property thereby conveyed should be at the disposal of, or subject to the control, debts, or engagements of the said Joseph B. Ladd." All which will more fully appear by reference to the said deed, now of record in the office of the circuit court of the District of Columbia, for the county of Alexandria, which said marriage was soon after had and solemnized between the said Joseph B. Ladd and Harriet V. Nicoll, whereby the said John H. Ladd became, and is yet, seized of the premises hereinbefore described, to the uses and to the trusts hereinbefore recited; and whereas the Farmers' Bank of Alexandria has agreed to loan to the said Joseph B. Ladd the sum of seven thousand dollars, or such part of that sum as he may require, on his notes, to be endorsed by the said John H. Ladd, and discounted at said bank, and to be renewed from time to time, under the endorsement of the said John H. Ladd, or of such other person or persons as the board of directors of said bank may, from time to time approve of, according to the usages of said bank, on the following terms and conditions: that is to say, that the said loans and discounts, or interest to become due thereon, shall be secured by an effectual lien on the premises before described; that on the said notes being regularly renewed, and kept up, and on the said interest or discounts being punctually paid on such renewals, and on one thousand dollars of the principal being paid within two years from the date hereof, the said Joseph B. Ladd shall be allowed the further term of one year, that is to say, three years from the date hereof, for the payment of the residue of said loan; and if within the said third year the said Joseph B. Ladd, his executors or administrators, shall pay to the said bank the further sum of two thousand dollars, and shall pay

and discharge the interest or discounts on the said notes as they shall be renewed, then that the time of the payment of the residue of said loan shall be extended one year further, that is to say, for the term of four years, from the date hereof, he, the said Joseph, his executors or administrators, paying the interest or discounts on the said notes as they shall be renewed during the said fourth year; and if within the said fourth year the said Joseph shall pay the further sum of two thousand dollars of the principal of said debt, then that the time of the payment of the residue of the said debt shall be extended one year further, that is to say, for the term of five years from the date hereof; the said Joseph, his executors or administrators, paying the discount or interest on the notes offered for renewal as the same shall be discounted. It being however distinctly understood, that the said Joseph B. Ladd, his executors or administrators, or the said Harriet V. Ladd, her executors, administrators, or assigns, are to be at liberty, if they think proper, to pay off and discharge the said loan at any period within the times so as aforesaid limited; and whereas, the said Harriet V. Ladd has on her part agreed to give the lien by the said bank required, and has directed and appointed the said Wharf lot, with its buildings and improvements, to be conveyed to the said John Hooff in the manner and on the terms and conditions herein mentioned.

Now, this indenture witnesses, that the said John H. Ladd, in execution of the trusts in the said deed hereinbefore mentioned, expressed, and declared, and in consideration of the sum of one dollar to him paid by the said Hooff, of which he does hereby acknowledge the receipt, does hereby grant, bargain, and sell to the said John Hooff, all that part of the said wharf, commonly called Conway's wharf, lying on the east side of Union street, in the said town of Alexandria, as the same was devised by the late Richard Conway to the said Joseph Conway, the father of said Harriet, with all buildings, improvements, rights of way and water, as the same have heretofore been held and enjoyed with the said wharf and buildings. To hold to the said John Hooff, his heirs and assigns, to his and their only use forever. In trust, however, for the use of the said Harriet, her heirs, appointees, and assigns, until default shall be made in the payment of the loan aforesaid, or of some part thereof, or of the discounts, or interest on the same, or of some part thereof; and if the said Joseph B. Ladd, his executors or administrators, shall at any time hereafter fail, or refuse to renew, from time to time, according to the usages and regulations of the said bank, the notes which shall be given, and there discounted, to obtain the said loan, or any one or more of such notes, under the endorsement of the said John H. Ladd, or of such other person as the board of directors of said bank shall approve; or if, on any one or more of such renewals, he, his executors or administrators, shall neglect or refuse to pay the discounts or interest thereon; or if within two years from the date thereof, he, his executors or administrators, shall have failed to pay one thousand dollars of the principal sum of such loan, if so much be due; or if within three years from the date hereof, he, his executors or ad-

ministrators, shall have failed to pay the further sum of two thousand dollars of the principal sum of said loan, if so much be due; or if within four years from the day hereof, he, his executors or administrators, shall have failed to pay the further sum of two thousand dollars of the principal sum of such loan, if so much be then due; or if within five years from the date hereof, he, his executors or administrators, shall have failed to pay whatsoever balance of the said principal sum as may be then due, then that the said John Hooff, or his heirs, shall on any such default, failure, or neglect, if required by the board of directors of the said bank, or by their assigns, or by their endorsers on such note or notes, his executors or administrators, proceed to sell at public auction to the highest bidder for cash, or on such credit as the said bank or its assigns may direct, the said wharf, buildings, and appurtenances, or so much and such parts thereof as he or they may, in their discretion, think proper: Provided, however, that the same shall produce enough to pay and satisfy the whole amount of said loan which shall not be paid, with all discounts and interest which shall be due thereon, and all reasonable charges and expenses of sale. Of the time, place, and terms of which sale, one month's notice shall be given in some newspaper published in Alexandria, and in such other newspapers as the said Harriet V. Ladd, or her representatives, may require, or as the said John Hooff, or his representatives, may think adviseable; and shall convey the premises so sold to the purchaser or purchasers thereof, and from the money from such sale to arise, the said John Hooff shall, after defraying all reasonable charges and expenses of sale, pay to the said bank, or to its assigns, so much of the said loan as shall not have been discharged, with all discounts and interest which shall be due thereon, deducting, however, from any note not then due discount, for the unexpired time, at the rate of six per cent. per annum, and shall refund to the endorser, or his representatives, any sum of money by him or them advanced under such endorsement, with legal interest thereon; and if any balance remain, shall pay over the same to the said John H. Ladd, his executors or administrators, or to such other person as the said Harriet V. Ladd, her executors or administrators, may direct, in such manner as she or they may appoint, to be held for the use of the said Harriet, if she be living, in the manner prescribed by the said deed before referred to; and if, after the full payment of the said loan, any part or portion of the property hereby conveyed should remain unsold, then the same shall be reconveyed to the said John H. Ladd, or his heirs, or to such other person as the said Harriet, or her representatives, shall direct or appoint, for his or their use; or, failing such appointment, to the use of the person or persons who, under the provisions of the deed before referred to, may be entitled to the same. Provided, however, that if the said Joseph B. Ladd, his executors or administrators, or the said Harriet V. Ladd, her appointed heirs or assigns, shall fully satisfy and pay all sums of money which shall be loaned by the said bank to the said Joseph B. Ladd as aforesaid, with all discount and interest which may become

due thereon, in the manner and within the times herein before prescribed, and shall pay all reasonable and necessary expenses which shall be incurred in the execution of the trust hereby created, then this indenture shall become void, and the estate and interest hereby conveyed shall forthwith be revested in the said John H. Ladd, or his heirs, for the uses and trusts in the said deed before referred, expressed, and declared; and the said John H. Ladd, for himself and his heirs, in consideration of the further sum of one dollar, to him paid by the said Farmers' Bank of Alexandria, does hereby covenant, with the said bank and its assigns, that if from any cause this conveyance shall be deemed insufficient or ineffectual to transfer the title to the premises therein described to the said John Hooff, then that the said John H. Ladd and his heirs will stand seized of the said premises to the uses and on the trusts herein before mentioned, and will execute the same in the manner prescribed for the said John Hooff and his heirs; and the said Harriet V. Ladd, in execution of the power of appointment to her reserved as aforesaid, does hereby direct and appoint the premises herein before described to be held by the said John Hooff and his heirs, on the uses and for the purposes and trusts before recited. And if this conveyance should not be deemed operative to convey the same accordingly, she does then, and in that case, direct and appoint the same to be held by the said John H. Ladd and his heirs, on the same uses and trusts for the purposes before expressed. And the said John Hooff and John H. Ladd, for themselves and their heirs severally, do hereby covenant, with the other parties hereto, severally, their heirs and assigns, faithfully to execute and carry into full effect the trusts herein before declared.

In witness whereof, the said John H. Ladd, Harriet V. Ladd, and John Hooff, have hereto set their hands and seals the day and year first before written.

JOHN H. LADD, [SEAL.]
HARRIET V. LADD, [SEAL.]
JOHN HOOFF. [SEAL.]

Sealed and delivered in presence of—
GEO. C. KRING,
JOHN MCCOBB,
As to J. H. L. and H. V. L.
MATTHIAS SNYDER,
CHAS. W. MUNCASTER,
JONATHAN FIELD,
As to J. H. L.

At an United States circuit court of the District of Columbia, held for the county of Alexandria, the 5th day of November, 1827, this deed of trust from John H. Ladd and Harriet V. Ladd to John Hooff, was proved by the oaths of John McCobb, Matthias Snyder, and Jonathan Field, to be the act and deed of the said Harriet V. Ladd, and John H. Ladd and John Hooff acknowledged the same to be their act and deed, which is ordered to be recorded.

Teste: EDM. I. LEE, *C. C.*

And on motion of the complainant, by her solicitor, a day is given the defendants, to wit, at the next rules, to file their answers; and the same day is given the complainant there, &c.

And at the rules held in the clerk's office of the said court for the month of July, 1843, came the defendants, by Francis L. Smith, esq., their solicitor, and filed their answers; to which answers the complainant replies generally, and issue and general commissions are awarded to take depositions, and cause continued; which answers are as follows:

The answer of the Farmers' Bank.

The answer of the Farmers' Bank of Alexandria to a bill of complaint filed against this defendant and others by Harriot V. Ladd, (through her next friend, Montgomery D. Corse,) in the United States circuit court for the county of Alexandria, in the District of Columbia:

This defendant, now and at all times saving and reserving all manner of benefit and advantage of exception to the manifold errors, imperfections, and untruths, contained in said bill, for answer thereunto, or to so much thereof as is material to be answered unto, saith, that it is true that the complainant, on the 12th day of October, 1824, prior to her intermarriage with her present husband, Joseph B. Ladd, entered into a marriage contract with him, and executed a deed of settlement of that date, to which the said Joseph B. Ladd and one John H. Ladd, as trustee, were also parties. That said deed is duly of record in the clerk's office of the United States circuit court for the said county of Alexandria. This defendant neither admits nor denies the correctness of the copy of said deed of settlement, which is filed as an exhibit with complainant's bill, but refers to the records of said court, or calls for the production of the original deed for the true and correct purport thereof.

This defendant further shews to your honors, that it was the manifest intention and design of the said complainant and the said Joseph B. Ladd, as "agreed on between them," and apparent on the face of said deed, that the real and personal estate of which the said complainant was possessed at the date of said deed, "should be settled to her sole and separate use, with power to dispose of the same by appointment or devise." This defendant is advised that from the whole scope, tenor, and terms of said deed of settlement, the said complainant was invested with as absolute and unlimited power and authority of disposing of the property which belonged to her at the date of said deed, and described therein, as if she had been a feme sole, and that the said complainant, by exercising the power of appointment as secured to her in said deed of settlement, had the lawful right to appropriate the said property, or to incumber the same for any purpose or purposes whatsoever. This defendant wholly denies the construction placed on said deed of settlement by said complainant, when she avers, that under said deed she had power by appointment to incumber nothing more than the interests, rents, and profits of said property, secured as afore-

said; and that the said property, and the interests, rents, and profits thereof, was in nowise liable to the debts and engagements of the said Joseph B. Ladd. This defendant avers that the said complainant, having an unqualified power of executing an appointment of the entire and absolute property and estate therein before referred to, in the mode prescribed in said deed, could lawfully subject the same, with her consent and by her authority, to the debts and engagements of the said Joseph B. Ladd, as well as to other purposes, and the said deed of settlement was only designed and intended to protect the aforesaid property from the debts and engagements of the said Joseph B. Ladd, when the said property might be attempted to be subjected and rendered liable thereto, against the consent, and without authority, direction, and appointment, of the said complainant. This defendant is further advised that, from the complainant's own showing, she had an entire and absolute property in the trust subject before alluded to, in possessing the admitted right by appointment to dispose of the rents, issues, and profits thereof, with an unqualified power over the inheritance; and that, on the hypothesis that by the terms of said deed nothing more was settled subject to her power of appointment than the aforesaid rents, profits, and interests, the said complainant had still the power over the reversionary interest in said trust subject, as her separate property, to dispose of the same absolutely, or to incumber it, for a valuable or meritorious consideration.

This defendant further states, that after the intermarriage between the said complainant and the said Joseph B. Ladd, the latter, with a desire, as he then declared, of building a steam mill, and making other improvements on that portion of the property described in the said deed of settlement "by the name of Conway's wharf," applied to the directors of the Farmers' Bank of Alexandria for the loan of seven thousand dollars. The said complainant voluntarily, and of her own free will and accord, offered, in order to enable her said husband to effect said loan, to give a lien and security on the property described in the deed of trust referred to in complainant's bill as exhibit B.

This defendant further states, that the aforesaid sum of $7,000 was loaned by the said Farmers' Bank of Alexandria to the said Joseph B. Ladd, on the faith of his notes for that amount, endorsed by the said John H. Ladd, and on the lien and security given on the property conveyed in the said deed of trust, which said sum was to be paid by the said Joseph B. Ladd to said Farmers' Bank of Alexandria, according to the terms and stipulations contained in said deed of trust.

This defendant avers, that the amount of the said loan, or the greater part thereof, was expended by the said Joseph B. Ladd in erecting the steam mill and in making other improvements on the aforesaid property; about the 21st day of May, 1833, the amount of the aforesaid loan was reduced to the sum of $6,000, which, with the accrued interest thereon, was due and unpaid at the date of the sale hereinafter referred to.

This defendant wholly denies that any coercion, or improper in-

fluence, was exercised by the said Joseph B. Ladd, or any other person, toward the said complainant, in order to prevail on her to execute said deed of trust, or that there was the least shadow of fraud in the whole transaction; but, on the contrary, this defendant avers, that the said complainant expressed a great desire that the said loan should be effected; that she was fully apprised at the execution of said deed of trust of its contents, and lien given on the property therein described, and that she freely signed, sealed, and delivered the same, as her act and deed, in the presence of the subscribing witnesses, whose names are thereunto subscribed, by three of whom its execution by the said Harriot V. Ladd was proved according to law in the United States circuit court, for the said county of Alexandria, on the 5th day of November, 1827, and was duly admitted to record in said court. The said Joseph B. Ladd was uniformly, up to the period of his separation from said complainant, a kind and affectionate husband; and although years have elapsed since said separation, the said complainant never intimated that he had exercised any undue influence in prevailing on her to execute said deed of trust, so far as the president, directors, and officers of the said Farmers' Bank of Alexandria are informed, or believe, until the same was alleged in the bill filed in this cause; this defendant therefore avers that the said allegation is utterly unfounded. The said deed of trust having been fairly and properly executed, the said defendant relies, for a farther defence in this behalf, on the ground that the said complainant is estopped and precluded from calling in question the contents thereof. This defendant is farther advised, that the said complainant, by signing, sealing, and delivering the said deed of trust as her act and deed, has fully and completely executed her power of appointment, as authorized in said deed of settlement, over the entire and absolute estate in the property described in said deed of trust, for the uses, purposes, and objects, set forth in said last named deed; and that the said John H. Ladd, trustee as aforesaid, fully co-operated by the execution and delivery *of* thereof, in carrying the said power of appointment into effect. This defendant is further advised, that the intention on the part of the said complainant, and the said John H. Ladd, being apparent on the face of the said deed of trust, to execute the power of appointment, secured to the said complainant in the said deed of settlement, a court of equity, (did any defect in fact exist,) which this defendant expressly denies, will lend its aid in remedying said defect, and effectuating the intention of the said parties.

This defendant further states, that after the expiration of the entire period allowed in the said deed of trust, for the payment of so much of the aforesaid loan, which with the interest thereon was due as aforesaid, and after the additional period of two years from the 21st day of November, 1838, allowed by the said Farmers' Bank of Alexandria for the payment thereof, as will be hereinafter more fully explained:

The directors of the said Farmers' Bank of Alexandria required the said John Hooff, trustee as aforesaid, to proceed, after having given no-

tice as required in said deed of trust, *to proceed* to sell the property therein conveyed.

This defendant states, that the said complainant not only expressed her willingness, but a great desire, that the said property might be sold, and the proceeds of sale be applied in liquidation of the aforesaid debt due to the said Farmers' Bank as aforesaid. To gratify the wish of the said complainant, and with a view that said property should sell for the highest possible price, the said directors of the said Farmers' Bank of Alexandria changed the terms on which they at first determined to have the said property sold, by giving a longer time on the deferred payments; all of which is particularly and correctly set forth in the answer of the said John Hooff, filed in this cause.

This defendant states, that the property was divided for sale, under the personal and joint direction of the said complainant, the said John Hooff, and the said directors, and that on the very day of sale, whilst the said complainant was on the premises, some alterations were made in the division of said property, by the aforesaid parties, at the request and suggestion of the said complainant; a portion of the aforesaid property, conveyed in said deed of trust, (in compliance with previous notice, as required by said deed,) embracing the steam mill buildings and that portion of the said wharf assigned therewith, was exposed to sale on the 7th day of September, 1842, on the premises, under direction of John Hooff, trustee as aforesaid, by George White, auctioneer, when, at the close of the biddings, the same was struck off to Benoni Wheat, who purchased the same for himself and the said John J. Wheat, at the sum of four thousand one hundred and seventy-five dollars. The said Benoni Wheat and John J. Wheat proceeded to comply with the terms of said sale, by paying in cash one-fourth the amount of said purchase money, and executing their notes for remainder at one, two, and three years from the date thereof, with a deed of trust on the said property, sold as aforesaid, to secure the payment of said deferred payments. The boundaries of said property, sold as aforesaid, are particularly set forth in the deed of bargain and sale, executed by the said John Hooff, trustee, to the said purchasers, and a copy thereof will be filed in this cause, if the same be required.

This defendant further states, that after said sale, and before the delivery of the said last named deed to the said Benoni Wheat and John J. Wheat, the said John Hooff personally submitted the said deed to the said complainant, and after an examination thereof, she returned it, declaring herself entirely satisfied therewith, and confirming and sanctioning the same.

This defendant avers, that although the said complainant was fully apprized of the said sale, and was on the premises the day the same took place, she made no objection thereto, but, on the contrary, assented to and approved the same; and that it was not until after the terms of sale had been fully complied with, and the aforesaid deed delivered to the purchasers, that she attempts to question the same by the institution of this suit.

This defendant states, that $1,003 07, the net amount of the cash payment, after deducting the costs and expences of sale, has been applied to the aforesaid debt, and the said notes, for the deferred payments, are in the possession of this defendant. The remainder of the property mentioned in said deed of trust, and which was advertised as aforesaid, remains unsold, as the directors of said Farmers' Bank determined to delay the sale thereof, with the expectation that the same would appreciate in value by the return of more prosperous times.

This defendant utterly denies the allegations in complainant's bill of the fraudulent possession or appropriation of any shares of the stock of the Washington and Alexandria Turnpike Company, the property of said complainant, by the said Farmers' Bank of Alexandria; and, in answer to said averment, sets forth, that on the 21st day of November, 1839, Sarah Ladd, the mother of the said Joseph B. Ladd, anticipating that the said real estate, mentioned in said deed of trust, would continue to increase in value, in view of the completion of the canal, then and now in a course of construction from Georgetown to the said town of Alexandria, and deeming it to the interest of her son, the said Joseph B. Ladd, and his wife, the said complainant, that the sale thereof should be deferred, she, the said Sarah Ladd, transferred to the said Farmers' Bank of Alexandria eighty shares, and no more, of the stock of the Washington and Alexandria Turnpike Company—a copy of said transfer is herewith filed, marked (A,) and of the terms of the agreement on which it was made, marked (B.) The transaction, in reference to said transfer, was made with the said Sarah Ladd, (in whose name the said eighty shares of stock stood on the books of said company,) but with the entire consent and approbation of the said complainant. The directors of the said Farmers' Bank of Alexandria in receiving said transfer, had no evidence or information that it was a portion of the same stock referred to in complainant's bill, but in fact believed, and so this defendant is now advised, that the said 80 shares of stock was, for all legal purposes, the property of the said Sarah Ladd, and that she had, so far as concerns this transaction, the entire property therein, and the absolute right to transfer the same; should it turn out, however, that in tracing title to said stock, (against which this defendant protests as illegal and unnecessary,) that the said 80 shares of stock composed a portion of that mentioned in said deed of settlement, then this defendant avers, that the said Joseph B. Ladd, and the said complainant, in execution of her aforesaid power of appointment, authorized and directed the said John H. Ladd, trustee as aforesaid, to transfer said stock. This defendant holds the said stock as collateral security, until the remainder of the debt, due as aforesaid from the said Joseph B. Ladd, shall be fully paid. This defendant admits the receipt of the accruing dividends on said stock, all of which have been applied, when the same were received, in liquidation of the said Joseph B. Ladd's debt.

And now, having fully answered, this defendant prays, that the said complainant's bill may be dismissed as wholly groundless, and that this

defendant may be henceforth dismissed the court, with all reasonable costs in this behalf expended.

JONES & SMITH,
Solicitors for deft.

I, John C. Vowell, president of the "Farmers' Bank of Alexandria," do hereunto affix the corporate seal of said bank to this answer, to be filed in the suit of Harriot V. Ladd, complainant, against said bank, and others, defendants, now pending in the United States circuit court for the county of Alexandria, in the district of Columbia.

Given under my hand this 31st day of May, 1843.

[L. S.] JNO. C. VOWELL.

Exhibit A.—Exhibit A.

For value received, I do hereby transfer to the Farmers' Bank of Alexandria eighty shares of the stock of the Washington and Alexandria Turnpike Company.

Witness my hand and seal this 21st day of November, 1839.

(Signed) SARAH LADD. [SEAL.]

Witness: P. E. HOFFMAN,
MARY GILPIN.

I agree that this is a true copy from the transfer book of the Washington and Alexandria Turnpike Company.

WM. BRENT, *for Compl't.*

Exhibit B.—Exhibit B.

FARMERS' BANK OF ALEXANDRIA,
December 16th, 1839.

The president and cashier, having made arrangements for further security on the debt of Joseph B. Ladd to this bank, having laid the same before the board, it is ordered to be recorded as follows, viz: The Farmers' Bank of Alexandria having this day received from Mrs. Sarah Ladd a transfer of eighty shares of stock in the Washington and Alexandria Turnpike Company, as further security for the payment of Jos. B. Ladd's note, amount six thousand dollars, due the said bank and unpaid, with an understanding the stock is not to be sold in less than two years from this date, and then to be applied towards the payment of said note of six thousand dollars, but the said Mrs. Sarah Ladd may direct the payment of the proceeds of said stock at any time previous to the expiration of said term of two years at her pleasure, and then to be applied towards the payment of said note of Joseph B. Ladd, amount six thousand dollars.

(Signed) JOHN C. VOWELL, *President.*

ALEXANDRIA, *Nov'r* 21, 1839.

Amended by introducing a clause that the bank shall not proceed against the property in deed of trust, Conway's wharf, until 2 years from this date, and then stock to be sold, without Mrs. Sarah Ladd should prefer to pay for the stock at the par value.

A copy. JOHN HOOFF, *Cashier.*

Answer of John Hooff.

The answer of John Hooff, to a bill of complaint filed against himself and others, by Harriot V. Ladd, through her next friend, Montgomery D. Corse, in the United States circuit court, for the county of Alexandria, in the District of Columbia.

This defendant, now and at all times hereafter, saving and reserving to himself all manner of benefit and advantage of exception to the manifold errors and imperfections contained in said bill, for answer thereunto, or to so much thereof as he is advised is material for him to answer unto, saith, that on the 9th day of October, 1827, John H. Ladd and Harriot V. Ladd, (the complainant,) wife of Joseph B. Ladd, executed to this defendant a deed of trust for the purpose of securing to the Farmers' Bank of Alexandria the payment of seven thousand dollars, loaned by the said bank to the said Joseph B. Ladd; that, on the 21st day of May, 1833, the amount of said loan was reduced by payments to the sum of six thousand dollars, which sum, with the accrued interest thereon, was due on said loan at the date of the sale hereinafter referred to; this defendant being the cashier of said Farmers' Bank of Alexandria, and having continuously filled that office for a period long anterior to said loan, is cognizant of the whole transaction. He avers that the aforesaid sum of $7,000 was loaned by the said Farmers' Bank to the said Joseph B. Ladd, that the whole transaction was fair and bona fide, and that so far as he knows or believes, the said deed of trust was executed by the said Harriot V. Ladd, without the slightest coercion, undue influence, or fraud, from any source whatsoever. This defendant has always understood, verily believes, and believing states, that a large portion of the amount of the aforesaid loan was used and employed by the said Joseph B. Ladd, in building the steam mill, and improving the wharf property, now claimed by the said complainant. For further answer in this behalf he states, that by an order of the board of directors of the said Farmers' Bank of Alexandria, adopted the 2d day of July, 1842, this defendant was required to sell the property mentioned in said deed of trust, on the following terms, that one-fourth of the purchase money should be paid in cash, and the remainder thereof in three equal annual instalments, payable in twelve, eighteen, and twenty-four months, with interest from date on the deferred payments. After said order was made, the said Harriot V. Ladd requested this defendant to apply to the said board of directors of the said bank for an extension of the credit payments in the sale of said property, urging, as the reason for said application, that she, the said Harriot V. Ladd, was convinced that the said property would sell for a larger price if a longer time was given for the deferred payments. This defendant, in compliance with the request of said complainant, made the said application, and the said board of directors, with a desire to gratify the wishes of the said complainant, and likewise with a view to the sale of said property to the greatest possible advantage, altered the aforesaid terms, and in lieu thereof directed that one-fourth of the purchase mo-

ney arising from the sale of said property should be paid in cash, and the remainder thereof in equal instalments of one, two, and three years, with interest from the sale on the deferred payments; upon which said last named terms the said steam mill property, wharf, and improvements thereunto belonging, as described and laid off and announced on the day of sale, were sold and conveyed to the said Benoni Wheat, and his son, John J. Wheat, as purchasers thereof.

This defendant further states, that it was upon the requisition of the board of directors of the said Farmers' Bank that he proceeded, as trustee in said deed of trust, to advertise for sale the property thereby conveyed, as will be seen by reference to a copy of the notice of sale herewith filed as an exhibit, marked 1. At the request of the said complainant, the aforesaid board of directors ordered that the said property, afterwards sold and conveyed to the said Benoni Wheat and John J. Wheat, should be laid off by certain specified boundaries before the sale thereof, upon the supposition that, by dividing the entire property conveyed in said deed of trust, it would command a larger sum. Thus, in accordance with a previous understanding, on the 5th day of September, 1842, this defendant sent to the said complainant the paper herewith filed, marked (2,) and prayed to be received as an exhibit in this cause, to enable the said complainant to see exactly the mode in which the said property would be sold; and that, if the arrangement and division of said property met with her approbation, that she might signify her consent thereto in writing. The said paper was returned to this defendant, signed by the said Harriot V. Ladd, and her assent thereto given, with some interlineations written in pencil in the body of said description, and an addition, written in ink, at the close thereof, of these words, "the alley is now looked on as a part of the property of the dwelling."

On the day of sale, this defendant met the said complainant on the premises, and after conversing with her as to the division of the property, at her request and suggestion, and by direction of the said board of directors, this defendant added that portion of the description of the property then about to be offered for sale, which appears on said exhibit, marked (2,) below the signature of the said Harriot V. Ladd, which said description was observed in the said sale, and in the conveyance of the property so sold as aforesaid. This defendant then proceeded, as trustee aforesaid, by George White, auctioneer, to offer for sale on the premises, to the highest better, according to the terms set forth in said notice, the said steam mill property, as laid off and assigned in the said directions, as agreed to by the said complainant, when, at the close of the biddings, the same was struck off to the said Benoni Wheat, who purchased for himself and the said John J. Wheat, at the sum of four thousand one hundred and seventy-five dollars.

This defendant further states, that, after the deed had been prepared for him, as trustee, to execute to the said Benoni Wheat and John J. Wheat, this defendant took, and personally submitted the same, to the said Harriot V. Ladd, and particularly observing the boundaries speci-

fied in said deed, when she declared that it was entirely right and satisfactory, and met with her decided approbation. This defendant subsequently executed and delivered the said deed to the aforesaid purchasers of the property thereby conveyed, they having duly complied with the terms of said sale. The amount received from the said Benoni Wheat, and John J. Wheat, for the cash payment on said purchase, after deducting the costs and expences of the aforesaid sale, has been applied to the debt due as aforesaid from the said Joseph B. Ladd to the said Farmers' Bank of Alexandria, and secured by said deed of trust. The bonds, executed by said purchasers for the deferred payments, are in the possession of the Farmers' Bank of Alexandria, and held subject to the aforesaid debt.

This defendant further states, that the said complainant has frequently expressed her anxiety that the aforesaid debt, due from the said Joseph B. Ladd to the said Farmers' Bank, should be paid, and that the property conveyed in the said deed of trust should be sold for that purpose. That, during all the preliminary arrangements about the terms and mode of selling said property, conveyed in said deed of trust, or of that portion of it which was sold as aforesaid, the said complainant never interposed the slightest objection; neither did she, on the said day of sale, though fully aware of the sale, and the mode and terms thereof, as aforesaid, take any steps to prevent the same, or give the least intimation, that this defendant is aware of, that the property conveyed in said deed of trust was not entirely and absolutely bound for the aforesaid debt to the said Farmers' Bank. It was not until after the sale was made, (with the knowledge and approbation of the complainant,) the terms thereof fully complied with, and a deed in fee simple first submitted to her, from this defendant, as trustee, to the aforesaid purchasers, that the said complainant intimated or set up her present alleged claim to said property; so far, at least, as ever came to the knowledge of this defendant. This defenddant further states, that the rest of the property described in said deed of trust remains unsold, but is, as the defendant is advised, absolutely, and to all intents and purposes, bound for the debt due as aforesaid from the said Joseph B. Ladd to the said Farmers' Bank of Alexandria; and having now answered, this defendant prays that he may be hence dismissed the court, with his reasonable costs in this behalf expended.

JOHN HOOFF.

DISTRICT OF COLUMBIA,

Alexandria county, to wit:

John Hooff, the within named defendant, personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, in the District aforesaid, and made oath, in due form of law, that the facts, as set forth in the within answer, so far as they depend on his own knowledge, are true; and, so far as they depend on the information of others, he believes them to be true.

Given under my hand, this 5th day of June, 1843.

CHARLES McKNIGHT.

(Exhibit No. 1.)

Exhibit No. 1, *advertisement of property.*

Valuable real estate for sale.—The subscriber, under a deed of trust, will sell at public auction, on Wednesday, the 7th of September next, that highly valuable and improved property called Conway's wharf, with the buildings and improvements thereon, consisting in part of a steam mill, four stories high, running three pair of burrs. The wharf is an extensive one, affording great facilities for the landing of grain and plaster. The mill is well calculated for grinding plaster and grain, and situated near the intended basin of the Alexandria canal. And at the same time will be sold a dwelling and store house, three stories high, and adjoining the said mill. The sale will take place on the premises, at 12 o'clock M.

☞ Terms one-fourth cash, balance in one, two, and three years, with interest, secured by deed of trust on the property; and on failure of either of the deferred payments, the property to be resold at ten days notice.

The title is considered good, but the subscriber conveys only such as is vested in him.

Jy. 27—eots. JOHN HOOFF, *Trustee.*

The attached advertisement appeared in the Alexandria Gazette every other day, from July 27th, 1842, to September 7th, 1842.

For E. SNOWDEN,
B. T. PLUMMER.

(Exhibit No. 2)—Instructions to the auctioneer.

Exhibit No. 2, *instructions to the auctioneer.*

All that portion of the property conveyed in the deed of trust from John H. Ladd and Harriet V. Ladd to John Hooff, dated the 9th day of October, 1827, lying south of the following boundary:

Beginning on the east side of Union street, in the town of Alexandria, four feet six inches from the southern corner of the brick dwelling house conveyed in said deed of trust, and running thence parallel with said brick house in an easterly direction to a line parallel with the wharf, at the east end of the brick warehouse and dwelling, with the right of the said warehouse and dwelling, of landing on the wharf, on the north side of the mill property, together with the steam mill wharf, rights of water and of way, and all the hereditaments and appurtenances thereunto belonging, or in any wise appertaining—the alley is now looked on as a part of the property of the dwelling.

Sep. 5th, 1842.

MADAM: As you desired, a few days past, I have obtained the order of the board to sell the mill and wharf, as described above, reserving the dwelling, &c., for a future day.

Please say if this meets your approbation with the return of this paper, as I wish to give it to the auctioneer on the day of sale.

Resp'y, JOHN HOOFF.

Mrs. H. V. LADD.

I agree to the above arrangement.

HARRIOT V. LADD.

Answer of Benoni Wheat and John J. Wheat.

The joint answer of Benoni Wheat and John J. Wheat, to a bill of complaint filed by Harriet V. Ladd, against themselves and others, in the United States circuit court for the county of Alexandria, in the District of Columbia.

These defendants, now and at all times hereafter, reserving to themselves all manner of benefit and advantage of exception to the many errors and misstatements contained in said bill, for answer to so much thereof as they deem it material for them to answer, say: That, on the 7th day of September, 1842, they became the purchasers, at a public sale had by John Hooff, trustee of a certain property in the town of Alexandria, usually called "Conway's wharf," with the steam mill, buildings, and improvements, and appurtenances, particularly described in a deed of bargain and sale from the said John Hooff, trustee as aforesaid, duly of record in the clerk's office of the United States circuit court for the said county of Alexandria. The amount of the purchase money was $4,175, one-fourth of which these defendants paid in cash, and executed their notes at one, two, and three years, for the remainder of the purchase money, in equal instalments, and have given a deed of trust on the property to secure the said deferred payments. These defendants aver that they had no notice or information that the said complainant objected to said sale, or questioned, or intended to question, the right of the said John Hooff, trustee as aforesaid, to sell said property, either at the time of said sale or subsequently, until about the time of instituting this suit; on the contrary, they were informed that said property was divided from the portion still unsold to meet the wishes of the said Harriot V. Ladd; and they are further informed, believe, and believing state, that the said Harriet V. Ladd was on the premises at the day of sale. These defendants aver, that the sale was public, numerously attended, and in every respect fair and bona fide, so far as they know and believe, and no objection or hindrance made thereto. They further state, that they are innocent purchasers at a public sale for a sound price, one-fourth of which they have paid at the time of the sale, and secured the rest as aforesaid. They further state, that they took possession of said property soon after said sale, with the knowledge and consent of the said complainant, and have proceeded to make heavy expenditures in repairs, &c. Disclaiming all fraud, combination, &c., these defendants pray to be hence dismissed the court, with their reasonable costs in this behalf expended.

BENONI WHEAT.
JOHN J. WHEAT.

DISTRICT OF COLUMBIA, *Alexandria county, to wit:*

Benoni Wheat and John J. Wheat personally appeared before the subscriber, a justice of the peace in the said county and district afore-

said, that the facts as set forth in the within answer, so far as they [depend] on their own knowledge are true, and so far as they depend on the knowledge of others, they believe to be true.

Given under my hand this 6th day of June, 1843.

ISAAC KELL, Sen'r, *J. P.*

And at the rules held in the clerk's office of the said court, for the month of April, 1843, (until which time this cause had been regularly continued,) came the parties by their solicitors, and on the complainant's motion, this cause is set for hearing on the bill, answers, replications, exhibits, and depositions, as to the defendants who have answered, and continued as to the others.

At another day to wit, at a court continued and held for the district and county aforesaid, the day of , 1844, came the parties by their solicitors, and on the complainant's motion leave is given her to amend her bill, and cause continued.

Agreement of counsel as to amendment of bill.

It is agreed that the bill in the case of H. V. Ladd vs. Farmers' Bank, and others, in the circuit court of the District of Columbia, for the county of Alexandria, in chancery, may be amended by interlineations or additions in and to the original bill, provided the same be done before or at the July rules next.

WM. BRENT, *for compl't.*
FRANCIS L. SMITH, *for def'ts.*

Answer of the Farmers' bank to amended bill.

The answer of the Farmers' Bank of Alexandria, to the amended bill, filed by Harriot V. Ladd, thro' her next friend Montgomery D. Corse, against this defendant and others, in the circuit court for Alexandria county.

This defendant, saving and reserving all just exceptions to the many errors and imperfections in said amended bill contained, for answer thereto, or so much thereof as is material to answer, saith, that this defendant expressly denies all and every allegation in said bill, which charges, that the said Harriot V. Ladd executed any deed, or other writing referred to in said bill, under the undue control, influence, or persuasion of her husband Joseph B. Ladd, and that it is utterly untrue that any of the officers, or authorized agents of the Farmers' Bank of Alexandria, was cognizant of, or connived at, any such alleged undue control, influence, or persuasion. On the contrary, this defendant avers, that said deeds, and other writings so referred to, were executed by the said Harriot V. Ladd, knowingly, willingly, and of her own free will and accord. This defendant is advised, that no examination of the said Harriot V. Ladd, privily and apart from her husband Joseph B. Ladd, was necessary by the law of the land to enable the said Harriot V. Ladd to convey, charge, or subject by lien, any of property, or rights of property, secured to her by the marriage contract filed with the original bill, and entered into before her intermarriage with the said Joseph B. Ladd. And this defendant avers, as has been heretofore shown,

that the property in dispute was settled prior to said intermarriage, to the sole and seperate use of the said Harriot V. Ladd. This defendant further denies, that the transfer of the eighty shares of the stock of the Washington and Alexandria Turnpike Company was made without good and legal authority by the said Sarah Ladd to this defendant, but avers, that the said Sarah Ladd had ample legal power and authority to make such transfer. Your honors will find from certified copies from the transfer books of the Washington and Alexandria Turnpike Company, now on file among the papers in this cause, that on the 30th day of April, 1829, the said Harriot V. Ladd, in pursuance, and in execution of the power of appointment, reserved to her in the said marriage settlement, dated the 20th October, 1824, between the said Joseph B. Ladd, the said Harriot V. Ladd, therein called Harriot V. Nicoll, and John H. Ladd, did direct the said John H. Ladd to transfer and assign one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company, in the said deed of marriage settlement mentioned, to the said Sarah Ladd. And the said Harriot V. Ladd farther declared, in the execution of the said power, "that the said stock, when so transferred, shall forever thereafter be and enure to the benefit of the said Sarah Ladd. This defendant avers, that the said John H. Ladd, trustee as aforesaid, in pursuance of, and [in] compliance with said direction, and for the purpose of effectuating the appointment so made by the said Harriot V. Ladd, did on the same day, (April 30th, 1829,) transfer and assign the said one hundred and sixty-two shares of the said stock to the said Sarah Ladd, and the said Sarah Ladd by transfer duly made, see defendant's exhibit (A,) on file in this cause, did on the 21st day of November, 1839, transfer to the said Farmers' Bank of Alexandria eighty shares of the said stock.

This defendant denies all knowledge at the time of said transfer that the said stock was the property of the said Harriot V. Ladd. It stood on the transfer books of the said Washington and Alexandria Turnpike Company in the name and as the property of the said Sarah Ladd, and no effort was then made, or deemed necessary, to trace the title of the said stock so transferred, and it is only done now, to show the full and ample power of the said Sarah Ladd to make the said transfer. This defendant expressly denies all fraud and combination in accepting the said transfer, and avers that the whole transaction, so far as this defendant was concerned, and of all the other parties connected therewith, so far as this defendant is informed, was fair and bona fide. This defendant denies the charge, that an account of the dividends has been denied to complainant, and avers that the said complainant has never demanded any such account. This defendant does not admit the right of complainant to call for any such account, conceiving that after the debt due to said Farmers' Bank shall be fully paid, the said stock, should its application to said payment, or any part thereof, become unnecessary, would revert and be retransferred to the said Sarah Ladd, or her legal representatives. This defendant does not admit the value of said stock to be as is averred in said amended bill; and further answering to the special

interrogatories in said amended bill contained, as to the consideration and motives which actuated the said Sarah Ladd in making the transfer of the said stock, begs leave to repeat the answer given thereto in defendant's answer to the original bill: "that on the 21st day of November, 1839, Sarah Ladd, the mother of the said Joseph B. Ladd, anticipating that the said real estate, mentioned in said deed of trust, would continue to increase in value, in view of the completion of the canal, then and now in a course of construction from Georgetown to the said town of Alexandria, and deeming it to the interest of her son, the said Joseph B. Ladd, and his wife, the complainant, that the sale thereof should be deferred, she, the said Sarah Ladd, transferred to the said Farmers' Bank of Alexandria eighty shares, and no more, of the stock of the Washington and Alexandria Turnpike Company. The terms of the agreement on which said transfer was made are contained in defendant's exhibit (B,) filed with answer to the original bill. The said defendant states, that the said Sarah Ladd received no other consideration for said transfer than the contemplated benefit in the advance in value of the said real estate of her said son, and the delay in the sale thereof, which was contracted for with this defendant, and contained in said agreement marked (B;) and it was on this consideration that the said Sarah agreed to transfer said stock as collateral security to meet any balance of the debt aforesaid which might remain due to this defendant, after applying thereto the proceed of the sale of the said real estate. This defendant avers, that in negotiating for and in receiving said transfer, the said Sarah Ladd was dealt with as the real, bona fide, legal owner of the said stock, with power absolute and entire to control and dispose of the same; and not as holding the said stock in anywise as the agent or trustee of the said complainant. This defendant, expressly denying all fraud and combination in this behalf, prays that the said bills may be dismissed, and this defendant discharged, with all reasonable costs in this behalf expended.

JONES & SMITH,
Sol'rs for defendants.

I, John C. Vowell, president of the Farmers' Bank of Alexandria, do hereunto affix the corporate seal of said bank to this answer, to be filed to the amended bill in the suit of Harriot V. Ladd, through her next friend, against said bank and others, now pending in the United States circuit court, for the county of Alexandria, in the District of Columbia.

Given under my hand this 18th day of September, 1844.

[L. S.] JOHN C. VOWELL, *President.*

Order of publication against absent defendants.

And at a court continued and held for the district and county aforesaid the day of 1844, came the parties aforesaid, by their solicitors, and it appearing to the satisfaction of the court that the defendants, John H. Ladd and Joseph B. Ladd are not inhabitants of the District of Columbia, on the motion of the complainant, by her solicitors, it is ordered that the said John H. and Joseph B. Ladd do appear here, on or before the first day of the next term of this court,

and answer the complainant's bill, and give security for performing the decrees of the court; and that a copy of this order be forthwith published, for two months successively, in the Alexandria Gazette, and another copy posted at the front door of the court house in this county.

Complainant's bill dismissed.

And now here at this day, to wit, at a court held for the district and county aforesaid, the 6th day of October, 1845, came the parties aforesaid, by their solicitors, and this cause having heretofore been regularly set for hearing on the bill, answers, replication, exhibits, and depositions, as to the resident defendants, and it appearing, to the satisfaction of the court, that the order of publicat on against the absent defendants has been duly executed, the complainant's bill is ordered to be set for hearing and decree as to them also. And now coming on to be heard and argued by counsel, on consideration whereof, the court doth order and decree, that the complainant's bill be dismissed with costs. Complainant's costs, $39 34; defendants' costs, $19 73.

Appeal to the Supreme Court.

And at a court continued and held for the district and county aforesaid, the 9th day of October, 1845, came the parties, by their solicitors, and the complainant prayed an appeal to the Supreme Court of the United States, which is granted her, upon her giving bond and security, to be approved by this court, or one of the judges thereof.

Depositions.—Commission to take depositions.

DISTRICT OF COLUMBIA, *to wit:*

The United States of America, to any two justices of the peace for Alexandria county, gentlemen, greeting:

Know ye, that we, trusting to your fidelity and provident circumspection in diligently examining John Hooff and Robert Jamieson, in behalf of the Farmers' Bank of Alexandria, and others, in a suit depending in our circuit court of the District of Columbia for the county of Alexandria, between Harriot V. Ladd and the said Farmers' Bank of Alexandria and others, we therefore desire you, that at such time and place as you shall appoint, you assemble yourselves together, and the witnesses aforesaid, before you, or any two or more of you, that you call and cause to come, and diligently examine, on the holy evangelists of Almighty God, touching the matter in controversy between the aforesaid parties; and when you have examined them, and taken their depositions as aforesaid, that you return the same to our said court, certified under your hands and seals, inclosed, together with this writ.

Witness William Cranch, esquire, chief judge of our said court, this 19th day of September, in the year of our Lord 1843.

CASSIUS F. LEE, *C. C.*

Notice to complainant.

MRS. HARRIOT V. LADD—

MADAM: You are hereby notified, that, between the hours of eight

and twelve o'clock in the morning of Friday next, (being the 22d day of September, 1843,) at the banking house of the Farmers' Bank of Alexandria, in the town of Alexandria, and District of Columbia, the depositions of John Hooff and Robert Jamieson will be taken, to be read as evidence, on the part of the defendants, in a suit in chancery, now pending and undetermined, in the United States circuit court for said county of Alexandria, in which you are complainant, and the Farmers' Bank of Alexandria and others are defendants.

Yours, &c.,

JNO. C. VOWELL,
Pres't Farmers' Bank of Alexandria.

September 19th, 1843.

ALEXANDRIA COUNTY, *to wit:*

Lewis Hooff personally appeared before the subscriber, a justice of the peace in and for the county aforesaid, in the District of Columbia, and made oath, in due form of law, that he delivered a true copy of the within notice to Mrs. Harriot V. Ladd on the 19th day of September, 1843. Given under my hand this 29th day of September, 1843.

CHAS. McKNIGHT.

I agree that the taking of the within depositions, under this notice, may be adjourned until the 29th day of September, 1843.

WM. BRENT, *for compl't.*

I also agree thereto.

F. L. SMITH, *for def'ts.*

Depositions.

Deposition of John Hooff.

The depositions of John Hooff and Robert Jamieson, taken by agreed adjournment of the within notice on the 29th day of September, 1843, between the hours of eight and twelve o'clock of that day, at the banking house of the Farmers' Bank of Alexandria, in the town of Alexandria, in the District of Columbia, to be read as evidence on the part of the Farmers' Bank of Alexandria, in a suit in chancery, now pending and undetermined in the United States circuit court for the county of Alexandria, in the District of Columbia, in which Harriot V. Ladd, by her next friend, is complainant, and the said Farmers' Bank and others are defendants—

John Hooff, of lawful age, being first duly sworn, according to law, deposeth and saith:

Question by the counsel for the Farmers' Bank of Alexandria: State whether or not a loan of money was ever made by the Farmers' Bank of Alexandria to Joseph B. Ladd, the complainant's husband, and whether the same was secured, and how; if yea, state all the facts and circumstances in relation to said loan of money; and all that you know in relation to the matters involved in the controversy between the complainant and the defendants.

Answer. I have filed an answer in this cause, with certain exhibits therein referred, which embraces all that I know of the matters alluded to in the foregoing interrogatory, and which I beg leave to adopt as my answer thereto, and as my deposition.

Question by complainant's counsel. Are you a stockholder in the Farmers' Bank of Alexandria, or are you interested in any stock therein owned by any other person?

Answer. I am not.

Question by same. Are you the John Hooff who is defendant in this suit?

Answer. I am.

Question by same. State how, and when, the money referred to in your answer was loaned to Joseph B. Ladd.

Answer. The money was loaned [to] Joseph B. Ladd on the faith of his note, endorsed by John H. Ladd, and secured by deed of trust filed by the complainant in this cause, marked exhibit (B.)

Question by same. Refer to the minutes of the Farmers' Bank of Alexandria, and furnish a copy of that part of the minutes on the books of said bank of the first and ninth of October, 1827, relative to the order taken for the loan to the said Joseph B. Ladd, and the proposition for said loan.

The following are the copies referred to, viz:

It is proposed to lend Joseph B. Ladd upon his note, endorsed by John H. Ladd, the sum of $7,000, provided the board shall be satisfied that the real security he may offer shall be good security for that sum; decided in the affirmative.

Oct. 9, 1827.

The loan provisionally granted to Joseph B. Ladd on the 1st inst., being under consideration, a deed of trust to John Hooff, trustee, signed by John H. Ladd and Harriot V. Ladd, and dated the 9th day of October, 1827, containing a description of the property intended to be conveyed as collateral security for the said loan, having been laid before the board, read, and considered, and upon the question shall the said property be deemed good security for the said loan of $7,000, the vote was in the affirmative.

Resolved, therefore, that the loan of $7,000 be made to the said Joseph B. Ladd upon the conditions contained in the said deed; and upon the further consideration, that the said Joseph B. Ladd cause the property contained in the deed to be regularly insured, and the policies assigned over to the trustee, John Hooff; upon this resolution John C. Vowell, Reuben Johnston, John H. Ladd, and Samuel Messersmith, voted in the affirmative; in the negative, Rd. M. Scott.

Question by the counsel of the Farmers' Bank. Furnish so much of the minutes and documents therein referred to of said bank, of the 8th of October, 1827, as relate to the aforesaid loan to Joseph B. Ladd.

Answer. Oct. 8, 1827, Joseph B. Ladd having laid before the board the opinion of Robert J. Taylor, in the following words:

I have examined the title of Mrs. Harriot V. Ladd to wharf property on the east side of Union street, late Richard Conway's; the title is perfect, and her power unlimited.

I have also examined the 3d section of the act to incorporate the Farmers' Bank of Alexandria; it does not prohibit the bank from taking a collateral security on real property through the intervention of a trustee. Such a security vests no title to the real property in the bank; it does no more than create a lien on it, or on the money for which it may sell, in favor of the bank; even in case of sale under such a deed it is not necessary for the bank to purchase, nor is it probable it would do so.

R. J. TAYLOR.

October 2d, 1827.

Question by the same. Do you know anything further in relation to the matters in controversy?

Answer. I do not.

JOHN HOOFF.

We agree that the complainant objected to John Hooff's being sworn, and also to the interrogatories propounded to him on part of defendants in chief, upon both of his examinations, and also to the whole of the testimony, as well as every part of the same given by said Hooff.

WM. L. BRENT, *for compl't.*
F. L. SMITH, *for dfts.*

Deposition of Robert Jamieson.

Robert Jamieson, of lawful age, being first duly sworn, deposeth and saith:

Question by defendant's counsel. State whether or not you have ever had any conversations with Mrs. Harriot V. Ladd in relation to a debt due the Farmers' Bank of Alexandria, from her husband, Joseph B. Ladd, on which a deed of trust was given by her and her trustee, John H. Ladd, on certain property situate on Union street, in the town of Alexandria? If yea, state when such conversations occurred, and the substance thereof.

Answer. A very short time prior to the sale of that portion of the property described in the deed of trust, which was purchased by Benoni Wheat and Son, I had a conversation with Mrs. Harriot V. Ladd, in which she said that she thought it would be better that the property referred to should be sold, and the debt alluded to should be paid; I understood her as expressing her entire willingness that said property should be sold, as she remarked that it was very unproductive.

Do you know anything further of advantage to either party as to the matters in issue in this suit?

Answer. I do not.

ROBT. JAMIESON.

The complainant, by her counsel, objected to the interrogatories pro-

pounded by the defendants to Robert Jamieson, and also the answers made by him to the same.

WM. L. BRENT, *for complainant.*
F. L. SMITH, *for defendant.*

The foregoing depositions were taken at the time and place set forth in the caption, before us, justices of the peace in and for the county of Alexandria, in the District of Columbia, in compliance with the within notice and commission.

Given under our hands and seals, this 29th day of September, 1843.

CHAS. McKNIGHT, [SEAL.]
JOS. HARRIS. [SEAL.]

1*st agreement of counsel.*—1st agreement of counsel.

HARRIOT V. LADD,
vs.
FARMERS' BANK OF ALEXANDRIA et al.

In the above entitled cause it is agreed, that the bill shall be considered as amended by charging the sale therein mentioned to Benoni Wheat and John J. Wheat, instead of Benoni Wheat alone, and the answer already filed to said bill by Benoni Wheat and John J. Wheat, shall stand as if filed after such amendment. Also agreed, that the deed from Hooff to said Benoni and John J. Wheat, as well as their deed of trust to said Hooff, may be read at the hearing by either party, from the land record books of Alexandria county, and in case the record of this cause is sent up to the Supreme Court, then copies of said deeds are to be incorporated into said record, as part of the evidence at the hearing of this cause. Also agreed, that the market value of the 80 shares of Washington and Alexandria Turnpike stock, transferred to said Farmer's Bank by Sarah Ladd, on 21st day of November, 1839, was at that date of the value of fifty dollars per share; and the same was worth, on the 16th December, 1841, dollars per share. Also agreed, that complainant may use, at the hearing, exhibits A and B, filed with the answer of said bank, and taken exhibit A from the transfer books of said turnpike company, and exhibit B from the books of said bank, to have the same effect at the hearing, (and no more,) as if the said exhibits had been proved and returned under a regular commission in this cause. Also agreed, that Sarah Ladd, who transferred the said shares in said turnpike, is dead, pending this suit, and by consent of all parties, it is agreed that this cause may be set down for final hearing upon the bill, answers, exhibits, evidence, (including this agreement,) and replication, without proceeding to make the personal representatives of said Sarah parties to this suit. Also agreed, that the exceptions taken by complainant to the examination and deposition of John Hooff be, and the same are hereby *waved*, so as to admit that the said John Hooff's said examination and deposition, under the commission for that purpose issued, was regular and duly authorized, the same as if a special order of court had been obtained for taking his examination under commission; and that the matter of his answer filed in this

cause, and the exhibit therein referred to, and thereto annexed, be taken as duly and specifically incorporated with, and identified in and by his said deposition, instead of being referred to and adopted by reference in said deposition; complainant simply reserving all exceptions on other grounds to the competency of the witness, and of the facts sworn to in his deposition and answer, taking his answer as a deposition.

ROBERT J. BRENT,
For complainant.
FRANCIS L. SMITH,
For defendant.

2d agreement of counsel.—2d agreement of counsel.

It is further agreed in this cause as follows, viz :

1st. That the exhibit marked exhibit (1), is the advertisement (referred to in defendant's answers) of the sale at which the two defendants, Benoni and John J. Wheat, purchased the premises described in the deed of said Hooff to them, and their deed of trust of said date to him; and that said premises *are* a part of the premises and real estate purporting to be conveyed by the said deed from John H. Ladd and complainant to said Hooff, the residue of said real estate being still unsold.

2d. That on the day of the sale to the Wheat's, the debt of Joseph B. Ladd to the Farmers' Bank of Alexandria amounted to $6000, with interest, from 21st of May, 1833, exclusive of the road stock and dividends mentioned in the bill of complaint and answers of defendants; and that the part of the premises sold to the two Wheats, (defendants,) was struck off to them for $4,175.

3rd. That John H. Ladd and Sarah Ladd, mentioned in the bill of complaint, and Joseph B. Ladd, the husband of complainant, all resided out of the jurisdiction of the circuit court at the filing of the bill, where they continue to reside, except Sarah Ladd, who is now dead; and the said Joseph B Ladd, at the time of the said sale by the said Hooff as trustee, for a long time before, and ever since, was and is living separate and apart from his said wife, (the complainant,) to wit, at Newport, Rhode Island; whilst she, during all the said time and times, was living, and yet is living, in the District of Columbia; and the parties, whose answers are now filed, severally consent that such decree may be rendered, as is just and proper between the parties now in court, without making said absent persons, or the representatives of Sarah Ladd, defendants to this suit.

ROBERT J. BRENT,
For complainant.
FRANCIS L. SMITH,
For defendants.

Complainant's notice to take depositions.

HARRIET V. LADD
vs.
FARMERS' BANK OF ALEXANDRIA et als.

Francis L. Smith, esq., counsel for defendants.

Please to take notice that upon the 15th day of December, 1843, be-

tween the hours of 10 o'clock, A. M., and 6 o'clock, P. M., the deposition of Mrs. Sarah Ladd will be taken at her house, in the town of Newport, State of Rhode Island, to be read in evidence upon the hearing of this cause, and to be taken before the commissioners named in conformity to an agreement entered into. You are requested to attend.

WILLIAM L. BRENT, *for complainant.*
F. L. SMITH, *for defendants.*

I accept notice. November 28, 1843.

Transfers of stock of the Washington and Alexandria Turnpike Company.

For value received, I hereby transfer to John H. Ladd, in trust, one hundred and sixty-three shares of stock in the Washington and Alexandria Turnpike Company; one hundred and sixty-one of which were transferred to me by Edward Lloyd on the 25th September, 1824, and two by A. C. Cazenove, on the 15th June, 1824.

Witness my hand and seal, this 1st day of November, 1824.

(Signed) JOSEPH B. LADD. [SEAL.]

Witness—JOHN POPHAM,
W. YEATON.

In pursuance and in execution of the power of appointment reserved to me in a certain indenture of settlement, dated 20th October, 1824, between Joseph B. Ladd, the subscriber Harriot V. Ladd, (therein called Harriot V. Nicoll,) and John H. Ladd, I do hereby direct the said John H. Ladd to transfer and assign one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company, in the said indenture mentioned, to John Hooff, cashier of the Farmers' Bank of Alexandria; and I do hereby declare, that the said stock, when so transferred, shall forever thereafter be and enure to the benefit of the said John Hooff.

Witness my hand and seal, this 2d day of January, eighteen hundred and twenty-seven.

(Signed) HARRIOT V LADD. [SEAL.]

Witness—B. C. ASHTON,
LEWIS HOOFF,
GEORGE C. KRING.

In pursuance of the preceeding appointment, I, John H. Ladd, do hereby transfer and assign to John Hooff, cashier of the Farmers' Bank of Alexandria, one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company therein mentioned.

Witness my hand and seal, this 2d day of January, 1827.

(Signed) JOHN H. LADD, [SEAL.]
Trustee.

Witness—B. C. ASHTON,
LEWIS HOOFF,
GEORGE C. KRING.

For value received, I hereby transfer to John H. Ladd, trustee for Harriot V. Ladd, one hundred and sixty-two shares of stock in the

Washington and Alexandria Turnpike Company, which shares were transferred by him to me on the 2d day of January, 1827.

Witness my hand and seal, this 13th day of April, 1829.

(Signed) JOHN HOOFF, [SEAL.]
Cashier.

Witness—LEWIS HOOFF,
S. MESSERSMITH.

In pursuance and in execution of the power of appointment reserved to me in a certain indenture of settlement, dated the twentieth day of October, eighteen hundred and twenty-four, between Joseph B. Ladd, the subscriber Harriot V. Ladd, therein called Harriot V. Nicoll, and John H. Ladd, I do hereby direct the said John H. Ladd to transfer and assign one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company, in the said indenture mentioned, to Sarah Ladd; and I do hereby declare, that the said stock, when so transferred, shall forever thereafter be and enure to the benefit of the said Sarah Ladd.

Witness my hand and seal, this 30th day of April, 1829.

(Signed) HARRIOT V. LADD. [SEAL.]

Witness—JOHN H. CREASE,
JOHN EVELETH,
ABIEL HOLBROOK.

In pursuance of the preceeding appointment, I, John H. Ladd, do hereby transfer and assign to Sarah Ladd, one hundred and sixty-two shares of the capital stock of the Washington and Alexandria Turnpike Company therein mentioned.

Witness my hand and seal, this 30th day of April, 1829.

(Signed) JOHN H. LADD, [SEAL.]
Trustee.

Witness—JOHN H. CREASE,
JONATHAN SHILLABER.

For value received, I do hereby transfer to Sarah Easton Ladd eighty-two shares of the stock of the Washington and Alexandria Turnpike Company.

Witness my hand and seal, this sixth day of December, 1839.

(Signed) SARAH LADD. [SEAL.]

Witness—P. E. HOFFMAN,
C. TOWNSEND,
MARY GILPIN.

The annexed copies of the five transfers, and the directions of Harriot V. Ladd to John H. Ladd, *to John H. Ladd*, to transfer to John Hooff, cashier, and to Sarah Ladd, are true copies from the transfer book of the Washington and Alexandria Turnpike Company.

P. E. HOFFMAN, *Clerk.*

We agree that the foregoing transfers are true copies from the books of the Washington and Alexandria Turnpike Company, to have the same effect in the suit in chancery, in the suit of Harriot V. Ladd, by

her next friend, against the Farmers' Bank of Alexandria, and others, defendants, as if the same had been regularly taken by deposition; the complainant reserving all exceptions to the same, as evidence, &c., or as to the same being transfers.

W. L. BRENT, *for compl't.*
F. L. SMITH, *for def'ts.*

Complainant's Bond.

Know all men by these presents, that we, Montgomery D Corse and George J. Thomas, are held and firmly bound unto the Farmers' Bank of Alexandria, Benoni Wheat and John J. Wheat, trading under the firm of Benoni Wheat and Son, and John Hooff, in the full and just sum of two hundred and fifty dollars; to the payment whereof, well and truly to be made, we bind ourselves and our heirs, jointly and severally, firmly by these presents. Sealed with our seals, and dated this 14th day of October, 1845. Whereas, at a United States circuit court of the District of Columbia, held for the county of Alexandria, the 6th day of October, 1845, in a suit in chancery, in which Harriot V. Ladd, (by Montgomery D. Corse, her next friend,) was complainant, and the Farmers' Bank of Alexandria, Benoni Wheat and Son, and John Hooff, and others, were defendants, it was ordered and decreed by the court, that the complainant's bill be dismissed, with costs; from which decree the complainant prayed and obtained an appeal to the Supreme Court of the United States. Now, the condition of the above obligation is such, that if the said Harriot V. Ladd shall prosecute her said appeal to effect, and pay all such costs and damages as may be awarded against her, in case she shall fail therein, then the above obligation to be void, otherwise to remain in full force and virtue.

M. D. CORSE, [SEAL.]
G. J. THOMAS. [SEAL.]

Sealed and delivered in presence of—
E. K. KEEFER.

Approved: W. CRANCH.

Clerk's certificate.

DISTRICT OF COLUMBIA,
Alexandria county, sc:

I, Cassius F. Lee, clerk of the United States circuit court of the District of Columbia, for the county of Alexandria, do hereby certify, that the foregoing is a full and true transcript of the record of proceedings in the suit lately depending in said court, wherein Harriot V. Ladd, by her next friend, Montgomery D. Corse, was complainant, and Joseph B. Ladd, John H. Ladd, the Farmers' Bank of Alexandria, John Hooff, Benoni Wheat, and John J. Wheat, the two last trading under the firm of Benoni Wheat and Son, were defendants.

In testimony whereof, I hereto set my hand and the seal of said [SEAL.] court, this 4th day of December, 1845.

CASSIUS F. LEE, *C. C.*

Filed February 3, 1846.

SUPREME COURT OF THE UNITED STATES.

No. 175.

THE UNITED STATES, PLAINTIFFS,

vs.

THOMAS STAATS, Jr.

ON A CERTIFICATE OF DIVISION FOR THE CIRCUIT COURT U. S. FOR THE SOUTHERN DISTRICT OF NEW YORK.

UNITED STATES OF AMERICA,
Northern district of New York:

At a circuit of the United States, begun and held at the city of Albany, for the northern district of New York, on Tuesday, the twenty-first day of October, one thousand eight hundred and forty-five, and in the seventieth year of American independence.

Present the honorable Samuel Nelson and Alfred Conkling, esquires.

THE UNITED STATES OF AMERICA,
vs.
THOMAS STAATS, Jr.

The defendant was indicted at a stated session of this court, held at Canandaigua, in the northern district of New York, on the eighteenth day of June, one thousand eight hundred and forty-four, which said indictment was and is in the words and figures following:

Circuit court of the United States of America, in and for the northern district of New York, in the second circuit.

Northern district of New York, ss:

At a stated session of the circuit court of the United States of America, in and for the northern district of New York, in the second circuit, held at the court-house in Canandaigua, in and for the said district, on the eighteenth day of June, in the year of our Lord one thousand eight hundred and forty-four, before the honorable Alfred Conkling, judge of the said court, assigned to keep the peace of the said United States of America in and for the said district, and to hear and determine divers felonies and other misdemeanors and offences in the said district committed; Horace Pownell, John Lloyd, Daniel R. Bostwick, Rufus Humphrey, Asa Ball, David Pickett, William Cambs, Horace Gilbert,

J. & G. S. Gideon, printers.

Hiram Millard, Edward Herndun, Josiah Sutherland, Joseph Williams, William Brace, Otis Wilmarth, Richard H. Shickell, John A. Lute, Hiram Chapel, William H. Johnson, and Nathan Aldrich, good and lawful men of the said district, then and there sworn and charged to inquire for the body of the said district, and for the said United States of America, do, upon their oath, present, that heretofore, to wit, on the eighteenth day of April, in the year of our Lord one thousand eight hundred and forty-three, to wit, at Ballston, in the said district, one David Goodhard, late of the town of Ballston, in the said district, was a claimant from the United States of America of the benefits of the act of Congress entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," appeared [or passed] on the seventh day of June, in the year of our Lord one thousand eight hundred and thirty-two, and did then claim and receive of and from the said United States of America, the moneys provided in and by the said act to be paid to the persons therein mentioned and described; and that, on the day and year, and at the place in the district aforesaid, and within the jurisdiction of this court, Thomas Staats, junior, late of Ballston aforesaid, yeoman, being an evil-disposed person, and contriving and *intending to injure and defraud* the said United States of America, *and to cause and induce the said United States of America to pay unto the said David Goodhard divers large sums of money, did cause and procure to be transmitted to the Commissioner of Pensions of the said United States of America*, and to be presented at the office of the said commissioner, *a certain writing purporting to be made*, subscribed, and sworn unto by one Benjamin Chadsey, on the twelfth day of April, in the year of our Lord one thousand eight hundred and forty-three, before Henry Clew, esquire, a justice of the peace in and for the county of Saratoga, in the said district, in which said writing it is, amongst other things, alleged and declared, by the said Benjamin Chadsey, that he, the said Benjamin Chadsey, "entered the service as a private soldier of the Revolutionary war at West Point, State of New York, in the month of March, 1781. In the month of March, he (the said Benjamin Chadsey meaning) marched to White Plains, where this deponent (the said Chadsey meaning) continued until the month of August or October, 1781, when this deponent (the said Chadsey meaning) under the above named officers marched to Trenton, New Jersey. While at Trenton, this deponent (said Chadsey meaning) became acquainted with a man who was a private soldier, during military duty under Major David Smith, who was a Hessian, and called David Goodfaith or Goodhart. At Trenton, this deponent, (said Chadsey meaning) under his officers above named, embarked in boats and proceeded to Chesapeake Bay, leaving the above named David Goodfaith and Major Smith and a number of troops at Trenton. A few days before the surrender of Cornwallis at Yorktown, this deponent (said Chadsey meaning) again became acquainted with the above named David Goodfaith, who was engaged in the engagement at Yorktown, in the American army; that, after the surrender of Lord Corn-

wallis, at Yorktown, this deponent, under his officers, as above named, in company with the above named David Goodfaith, proceeded to Philadelphia, where we (said deponent and said Goodfaith meaning) arrived the latter part of November, 1781, where this deponent remained in winter quarters; Major Smith and a number of the American troops proceeded on northward, and also the above named Goodfaith; that, at the different times this deponent (said Chadsey meaning) saw the above named Goodfaith, as above stated, he was performing military duty in the American army of the Revolutionary war as a private; that after this deponent (said Chadsey meaning) left the service of the Revolutionary war, he again became acquainted with the above named David Goodfaith at Middletown, in Connecticut, for a short period, where he went by the name of David Goodhart; that, about thirty years ago, (before the making of the said affidavit in writing meaning,) while this deponent residing where he now resides, (and ever since resided,) he, (the said Chadsey meaning,) this deponent, again became acquainted with the above named David Goodfaith, (who then resided in Ballston, where he now resides,) and that this deponent has ever since been acquainted with the above named Goodfaith, but not very intimately; at the time this deponent (the said Chadsey meaning) became acquainted with the above named Goodfaith at Middletown, in Connecticut, and ever since he has went by the name of David Goodfaith; and this deponent knows that the above named Goodfaith, or as he is now called Goodhart, is the same person that this deponent saw performing military duty in the Revolutionary war, as stated by this deponent (said Chadsey meaning) above; and the said Thomas Staats, junior, *knowing the said affidavit to be false and untrue, and that the said* Benjamin Chadsey did not, while at Trenton, become acquainted with a man who was a private soldier, doing military duty under Major David Smith, who was a Hessian, and called David Goodfaith or Goodhart; and knowing, that a few days before the surrender of Cornwallis at Yorktown, the said Benjamin Chadsey did not again become acquainted with the above named Goodfaith, who was engaged in the engagement at Yorktown, in the American army, and that the said Benjamin Chadsey did not, after the surrender of Lord Cornwallis at Yorktown, under his officers above named, in company with the above named David Goodfaith, and the troops under the command of Major Smith, proceeded to Philadelphia, where they arrived the latter part of November, 1781, where the said Chadsey remained for winter quarters; and that Major Smith, and a number of the American troops, did not proceed on northward, and also the above named Goodfaith; and that, at the different times the said Chadsey saw the above named Goodfaith, as above stated, he was not performing military duty in the American army of the Revolutionary war as a private; and that, after the said Chadsey left the service of the Revolutionary war, he did not again become acquainted with the said David Goodfaith, at Middletown, Connecticut, for a short period, and that the said David Goodfaith did there go by the name of David Goodhart; that about thirty years ago, (before the making the

said affidavit in writing,) the said Chadsey did not again become acquainted with the said David Goodfaith; and that, at the time the said Chadsey became acquainted with the said Goodfaith, at Middletown, in Connecticut, and ever since, he has not gone by the name of Goodhart; and that the said Chadsey did not know that the said Goodfaith, or, as he was then called, Goodhard, was the same person that the said Chadsey saw performing military duty in the Revolutionary war, as stated by the said Chadsey in his said affidavit, to wit: on the same day and year, and at the place aforesaid, did transmit, and did cause and procure to be transmitted, to the said Commissioner of Pensions of the said United States of America, the *said false writing and affidavit as a true writing, in support* of the aforesaid claim of the said David Goodhard, with intent to *defraud the said United States of America*, contrary to the form of the statute in such case made and provided, and against the peace of the said United States of America and their dignity.

2d count. And the jurors aforesaid, upon their oaths aforesaid, do further present, that heretofore, to wit, on the eleventh day of April, in the year of our Lord one thousand eight hundred and fifty-three, the said David Goodhard was a claimant from the said United States of divers sums of money as a pensioner under and for the benefits of the said act of Congress, entitled "An act supplementary to the act for the relief of certain surviving officers and soldiers of the Revolution," approved on the seventh day of June, eighteen hundred and thirty-two, to wit, at Ballston aforesaid, in the said district, and that, in support of the said claim, one William Bowsman, of the town of Malta, on the said eleventh day of April, in the said last mentioned year, at the place in the district aforesaid, did subscribe and duly make oath unto a certain affidavit in writing, before William B. Nixon, then a justice of the peace of the county of Saratoga, in the said district, in which said affidavit in writing it is, amongst other things, by the said William Bowsman stated, alleged, and declared, that, in the year 1780, and previous thereto, he (the said William Bowsman, the said deponent to the said affidavit in writing) resided about one and a half miles from the blockhouse near Dobbs' Ferry, in the State of New Jersey; that some time in the month of September, or latter part of August, 1780, he (the said deponent) became acquainted with a man in the blockhouse, who was a German, but generally called Hessians, who was usually called David Goodfaith, but sometimes he was called Guthart; that, in the year 1794 or 1795, this deponent (the said William Bowsman meaning) again became acquainted with the above named David Guthart (who at this time and ever since has went by the name of Guthart) in the county of Rensselaer, town of Grafton, in the State of New York, and that this deponent (said Bowsman meaning) has ever since been acquainted with the above named Guthart, but not very intimately; this deponent (said Bowsman meaning) knows that the above named David Guthart is the same person that this deponent saw in the blockhouse, as above mentioned; whereas, in truth and in fact, the said William Bowsman

did not, in the month of September, or latter part of August, 1780, become acquainted with a man in the blockhouse aforesaid, who was a German, but generally called Hessian, who was usually called David Goodfaith, but sometimes was called Guthart; whereas, in truth and in fact, the said Bowsman did not, in the year 1794 or 1795, again become acquainted with the said David Guthart, in the county of Rensselaer, in the town of Grafton, and State of New York; and whereas, in truth and in fact, the said Bowsman did not know the above named David Guthart to be the same person that said Bowsman saw in the blockhouse, as above mentioned; and the said Thomas Staats, junior, well knowing the premises, and well knowing that the said affidavit in writing, last above mentioned, was false and untrue; and that the said Bowsman did not, in the month of September, or latter part of August, 1780, become acquainted with a man, in the blockhouse aforesaid, who was a German, but generally called Hessians, who was usually called David Goodfaith, but sometimes was called Guthart; and well knowing that the said Bowsman did not, in the year 1794 or 1795, again become acquainted with the said David Guthart, in the county of Rensselaer, and town of Grafton, in the State of New York, did afterwards, to wit, on the eighteenth day of April, in the year one thousand eight hundred and forty-three, did cause and procure to be transmitted and presented to the Commissioner of Pensions of the said United States of America, the said false and untrue affidavit in writing, as a true writing in support of the said claim of the said David Goodhard, with intent to defraud the said United States of America, contrary to the form of the statute in such case made and provided, and against the peace of the said United States of America and their dignity.

(A copy) J. A. SPENCER,
Dis. Att'y.

To this indictment the said defendant, on being arraigned in due form, pleaded not guilty, and the issue thus joined upon the said indictment came on to be tried at the present session of this court by a jury duly empannelled and sworn; and the said jury, upon the trial of the said issue, found the said defendant guilty, as charged in the said indictment.

The said defendant did, thereupon, after the rendering the said verdict of guilty by the said jury, and on the seventh day of November, one thousand eight hundred and forty-five, at this present session of the circuit court, move this court, before the said judges thereof, to arrest the judgment upon the said verdict, and alleged and insisted in support thereof, and the following questions occurred:

1st. Whether the said indictment is fatally defective, for the reason, that the acts charged to have been committed by the said defendant are not in said indictment charged to have been committed feloniously or with a felonious intent.

2d. Whether the acts charged in the said indictment to have been committed by the defendant do constitute an offence within the provi-

sions of the first section of the act of Congress, approved March 3d, 1823, entitled "An act for the punishment of frauds committed on the Government of the United States."

On each of which questions the opinions of the judges were opposed.

Whereupon, on motion of William F. Allen, attorney for the United States for the said district, that the points on which the disagreement hath happened, may, during the term, be stated under the direction of the judges, and certified, under the seal of the court, to the Supreme Court, to be finally decided.

It is ordered, that the foregoing state of the pleadings, verdict, and questions on the said motion in arrest of judgment, which is made under the directions of the judges, be certified according to the request of the said United States attorney, and the law in that case made and provided.

United States of America,
Northern district of New York:

I, Anson Little, clerk of the circuit court of the United States, for the northern district of New York, do hereby certify the foregoing to be a copy from the minutes.

Given under my hand and seal of office, at Utica, on the twelfth day of November, in the year of our Lord one thousand eight hundred and forty-five.

[SEAL.]

ANSON LITTLE, *Clerk.*

Filed 4 Feb'y, 1846.